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THE

HISTORY OF NORTH AMERICA

Guy Carleton Lee, Ph. D.

of

Johns Hopkins and Columbian Universities, Editor

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KENTUCKY PIONEERS

Simon Kenton, pioneer, who named "Kaintuckee" (Canelands), by Morgan.

Colonel Daniel Boone, by Chester Harding.

Isaac Shelby, first Governor of Kentucky, by Matthew Jouett.

From the paintings in possession of Colonel Reuben T. Durrett, of Louisville, Kentucky.

THE HISTORY OF NORTH AMERICA

VOLUME EIGHT *THE LOUISIANA PURCHASE AND THE WESTWARD MOVEMENT*

BY

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EDITOR'S INTRODUCTION

THE United States owes to France two of her most precious possessions: the first, independence; the second, the Louisiana Purchase. The winning of the first has in THE HISTORY OF NORTH AMERICA been chronicled in the volume entitled *The Revolution;* the gaining of the second is set forth in the volume now before us. The imperial expanse of fertile country stretching from the Mississippi Delta to the borders of what is now Canada was a domain of which Spain and France, by whom it had been held, knew little. True, their trappers and traders had stations throughout it, and expeditions now and again penetrated its fastnesses, even in the early days before the Western settlements of the United States had waxed lusty and prosperous and burdened the Father of Waters with their productions in transit to the town of New Orleans. But the Spanish, after the French, and the French again after the Spanish, though in truth the later French occupation was short, made little avail of the riches at their hands; in fact, they grasped only and seemingly cared more to prevent others from profiting by the country to the westward of the Mississippi than to use it themselves. But this policy, this opposition to American development, was destined to operate to the advantage of the new republic; for it forced it to take action destined to put an end to the intolerable situation by which the entire portion of its territory west of the Alleghanies was compelled to forego the free use of its natural outlet to the world's commerce,—the Mississippi River. It is at

this juncture that we find France again the benefactor of the United States, and for the same reason—antagonism to Great Britain—that had caused her a quarter of a century before to give her aid to the colonies warring for independence.

The tremendous importance of the Louisiana Purchase is threefold: as we have suggested, it gave to the Western States and the Northwest Territory free communication with the Gulf of Mexico and thus with the world. It added to the territory of the United States a country exceeding in extent the original thirteen States themselves. But the third result of the cession of the Louisiana Purchase by France will by some be placed far above its fellows in the scale of importance. That third result has been so far-reaching that the end of its influence has not only not been approached, but it is not even to be predicted. In other words, the acquisition of the great district known as Louisiana was the first step in the progress of expansion that has given to the United States their position upon the North American continent and, we may add, in the world.

Benjamin Franklin has been rightly called the first great expansionist; the second was James Monroe, as some have said; and the third, Thomas Jefferson. It was Thomas Jefferson who made possible the ratification of the plans of Monroe, and against his own fixed opinions of constitutionality Jefferson secured to the United States Louisiana, as Monroe afterward secured Florida. The debates upon Louisiana in the first decade of the nineteenth century are of the greatest importance, and the opinions these enunciated by those favoring or opposing the acquisition of Louisiana, are the bases of countless arguments that for a century have furnished arms to contending politicians.

A few of these arguments had root in the controversies that had attended the creation of the States of Tennessee and Kentucky and in the organization of the Northwest Territory, but the case of Louisiana differed radically from that of either the trans-Alleghany States or the Northwest.

In the former instance, we find the question one of the acquisition of foreign territory bearing a foreign population with alien manners, laws, and language; the other was a matter of the organization of territory that belonged to the original States and was inhabited for the most part by men from those States. But the argument of expediency was, after all, the deciding one; and for a few millions of dollars, less, in fact, than the productions for one year of the least of the States formed from it, was the Louisiana Purchase made a part of the possessions of the United States.

The story of the exploration and settlement of this great territory is one that can be recounted in two ways: one, lightly, as a tale of adventure; and if so recounted, an author has a wide opportunity to hold the attention of the readers, for there is no more dramatic stage in national progress than the settlement of the Northwest Territory and the Louisiana Purchase by what has been aptly entitled the Westward Movement. By the second way, we may construct a narrative of as great interest as in the first case, but with the added advantage of strict adherence to historical method. Following this second plan, we divide the great migration into waves. The first of these brought to the West those pioneers who traversed the passes of the Alleghanies or followed the south-trending river valleys and planted the first settlements in that wide territory intervening between the mountains and Mississippi River. The next wave of these adventurers laid the foundations of the great States that now lie upon each side of Ohio River, and gave to the Northwest Territory that strong and deep-laid foundation that has preserved American institutions in the face of the great foreign influence that has for fifty years been pressing westward. The last of the great migrating movements is a strictly commercial one. It follows closely upon but is not a part of the exodus from the East that came in the fifties because of the discovery of gold in California, in the sixties to advance sectional principles, and in the seventies to win cheap lands, and it has no

connection with the foreign migration that has centred to a marked degree in Wisconsin, though it gave many inhabitants to the other States of the Northwest.

The account of these migrations is equalled in historical value, if not in popular regard, by the description of the manner in which State after State in the Northwest Territory and in the Louisiana Purchase developed from the first stage of Territorial government. This subject presents many features of interest. In every case, attendant conditions govern procedure; but, despite this, we are able to deduce certain general rules controlling the government of Territories and their creation into States. For this purpose a study of the Enabling Acts and the State constitutions is necessary, but the study is well repaid by the manner in which the knowledge thus gained makes clear the great movements by which the United States have gained in territory and strength—a strength arising as well from mental as material resources.

These subjects, the development of the trans-Alleghany States south of the Ohio, the settlement of the Northwest Territory and the formation of States from it, the purchase of Louisiana and the development of its States, the great migrations which have peopled these vast spaces of the West, the manner in which governmental forms have passed from the lowest territorial stage to statehood, and the general principles deducible from these progressions, are considered in the present volume, and the treatment given them is such as to win for Professor Geer's *Louisiana Purchase and the Westward Movement* a place of its own among historical works. It is therefore an especially useful volume of THE HISTORY OF NORTH AMERICA.

GUY CARLETON LEE.

Johns Hopkins University.

AUTHOR'S PREFACE

THIS book is written to show how the country west of the original thirteen colonies became populated and how these western people established their governments. The attempt is made to present the essential elements in the changes which transformed a wilderness into self-governing States, and the processes are presented by which this was accomplished.

In passing into the Mississippi valley the institutions of the Atlantic States were modified so as to meet new conditions. Not only did the people who settled in the Mississippi valley meet changed circumstances to which they had to fit their institutions, but the nation faced a problem for which it did not find itself well prepared, and for which it had no precedents. It is not only of historic interest but of present-day importance to understand how the national government met the questions which came as a result of expansion. The growth of the West has influenced the nation as a whole. Changes in the interpretation of the Constitution were made to meet the unexpected conditions resulting from the westward movement; and men who were neither northern nor southern, but western, had a share in influencing the administration of national affairs.

An attempt is made to show how geographical conditions influenced the movement and spread of population. It is shown that the mountain barriers even in the south were not difficult to pass, and that the journey to the West from the northern States was much easier. The influence of the

rivers and their valleys on the distribution of population is shown. Special emphasis is placed on the Mississippi, and its most important branch, historically, the Ohio. These two were the great highways of immigration and commerce till the coming of the railroads. The Lakes were important in the rapid settlement of the land beyond the Alleghanies and in its commercial development. The river system made this portion of the country a geographical unit with Mississippi River as the natural centre. Some consideration is given to the effect which this fact has had upon the political development of the West.

This book is the history of a movement and not of a single period. While there are years which are marked by a large migration to the West, there is no one decade of which westward expansion is the characteristic. Settlements over the mountains began before the Declaration of Independence was signed. The movement to the West has continued to this day. There are certain events which have given added impulse to it. These are given consideration. The object has been to survey the movement as a whole. In an attempt of this kind in which no one section of the country is considered, and which does not confine itself to one period, it is necessary that territory must be traversed which is covered by other writers in the series. It is believed that this will be an advantage because in every case the author has treated these subjects in their bearing upon the general theme of westward movement.

In any study of this question it is only natural that the Louisiana Purchase should occupy a large place. It was our first and greatest land purchase, and has influenced our history more deeply than any other event since the adoption of the Constitution. Special attention has been given to the political and constitutional aspects of the Purchase and the views of contemporary statesmen.

It is hoped that this work may add to the increasing interest in western history. Too often in school and college the history of the United States is taught as if the

nation was still situated east of the Alleghanies, and that such matters as the conquest of the Northwest and the Louisiana Purchase were of little importance. The development of American ideas of government and political life cannot be understood until they are studied not only in the place of their origin, but where they have had the best opportunity for growth, in the States of the Mississippi valley.

CURTIS M. GEER.

Hartford, Connecticut.

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GEER

CHAPTER I

SETTLEMENTS BEYOND THE ALLEGHANIES IN COLONIAL DAYS

THE greatest question before America in the eighteenth century was the control of the Mississippi valley. This was the finest river valley in the world, with great but undeveloped and unknown possibilities in it. Should this remain the home of the Indian, or should it become the future home of Europeans? And furthermore should these Europeans be British or French? The advancing civilization made the continued control of the territory by the Indians an improbability. The conflict must be settled between the British and the French. It did not reach its final settlement until the beginning of the next century, but the forces were at work all through the latter half of the eighteenth which would finally give the control to the British. Possibly the United States might have become a world power without the control of this valley, but it is doubtful. The natural outlet for the commerce of all the vast interior is the Mississippi, and if cut off from this, the nation would have been confined to the Atlantic seaboard, with no possibility of westward expansion to the Pacific, and no chance for contact with the Orient. It is certain that the history of the United States would have been very different, if the new nation had been confined to the eastern slope of the Alleghanies. In 1750 the prospect of any expansion of the American colonies to the west seemed very small. The mountains, range beyond range, made a natural barrier to

any extension toward the west. There was very little knowledge of the country beyond the mountains which would induce anyone to make the journey, and there still remained in the east vast stretches of unused lands, enough apparently, to support all the emigrants and their children for many generations. The difficulties of the journey over the mountains or down the rivers were very great, and there were dangers in the wilderness and from the Indians. The land was believed to be held by powerful Indian tribes, hostile to the British, who would dispute any encroachments on their hunting grounds. More important than this, the French, the hereditary enemies of the British and therefore of the colonists, laid claim to the valley and would resist any attempt which the British might make to settle there; but these and other excellent reasons did not appeal to the settlers. There was the restless desire to improve their condition which made men hope that better fortune would come to them in the land beyond the mountains; and so, in spite of danger and difficulty, the westward movement of population began and continued until it filled the valley with growing cities and prosperous States. It did not stop, until, having passed the valley and the highlands beyond, it reached the Pacific. Like the pioneer everywhere, the man who, with his family and meagre household goods, made the weary journey over the mountains or floated his flatboat down the Ohio into the disputed lands, did not understand the importance of the work he was doing. Nor do we yet know, but we are beginning to understand that it was a preparation by which the little strip of Atlantic colonies was to become a world power in which certain Anglo-Saxon ideas of equality and liberty were to have their fairer trial under more favorable circumstances than they possibly could under any Old World conditions, or if hemmed in by the mountains which would make them a strip of Atlantic seaboard States.

Who owned this land beyond the mountains? According to the early English colonial charters it belonged to the king,

and he granted it to the colonists in a very generous way. Many of the charters were given with the Pacific as the western boundary, on the supposition that the Pacific was but a short distance to the west of the sources of the rivers flowing into the Atlantic. The French claimed this territory because they had been the early explorers, and their trading posts, scattered here and there through the vast wilderness hundreds of miles apart, seemed to give them a right to the country. They did not claim the exclusive right, because they wished to keep it a wilderness and use it as a wide hunting ground in which the Frenchman and Indian would live together like brothers. Their little settlements were, at best, trading posts, and their attention to agriculture was so slight that there seemed to the Indians no danger that they would ever drive out the old owners or interfere with them seriously. While there were these different claims, many of them very shadowy, it became evident that the nation strong enough to hold the land would be the one whose claim would finally be made good; and this is true in spite of Indian treaties or purchases from the natives. Much of the land first settled by the whites was land to which no Indian tribe had a claim, but was the common hunting and fighting ground for several tribes. This is notably true of the "Dark and Bloody Ground" where the British settled in the valleys of Kentucky and Tennessee Rivers.

In a condition of this kind the real ownership and right of settlement had to be determined by other principles than those of primitive ownership. There was no justice in allowing a few Indians to use Kentucky and Tennessee as a fighting ground when the surplus population of the world needed it for its cornfields. There was no abstract justice in closing some millions of acres of the best farming lands in the world to all settlers in order that a few French fur traders might be undisturbed in the use of it. It was theirs if they could properly use it, but they could not and showed no disposition to attempt to do so. So it came into the hands of the British, because as a people they could

make good use of it. The Frenchman had no inherent right to the valley because he had discovered it. Neither had the Briton a right to it by his sea to sea charter. Legally, the British gained it by conquest and treaty. Morally it was theirs, because they, of all people of the world, could make the best use of it. But the French were the only settlers in the Mississippi valley at the beginning of the movement from the Atlantic seaboard toward the West. There were, however, very few French settlements; some were among the Illinois Indians and others on the lower courses of Mississippi River, but over the rest of the great valley there were only here and there the huts or camps of the fur trader and adventurer, and probably no more of these than of those of the British who were trading with the Indians. Roosevelt estimates the number of French in the settlements in 1775 as only four thousand. This estimate does not include the scattered traders who were with the various Indian tribes. The settlements in the Illinois country were due to the work of the Jesuits, who established mission stations designed to form centres for their work with the Indians. Many of these stations were only transitory; others, because of their favorable locations, became permanent settlements. Kaskaskia was one of these because of its location near the Mississippi. It was within reach of the traffic up and down the river and so became a fur trading centre. It was a prosperous village in 1705, and by 1721 contained a Jesuit college and monastery. Under French control it became a little city of two or three thousand population, but at the beginning of the Revolution it had not more than five hundred inhabitants. Another important early settlement was Cahokia, situated a short distance below the present city of St. Louis. It was built in 1699 upon the bank of the Mississippi, but changes in the current of the river left it a mile and a half inland in the course of three years.

In the Illinois country in 1750 there were some half dozen settlements on or near Mississippi River. Farther to

the east, on the Wabash, there was another centre for settlement in the trading post St. Vincent, though this did not become a permanent town till 1734. These small, widely scattered settlements could hardly be considered strong enough to hold the Mississippi valley by right of possession. Vast stretches of country which now form populous States were entirely unoccupied except by the Indians. There was not a French settlement between the Great Lakes and the Illinois country. These French settlements were self-reliant communities, made so by their isolation. The settlers came hundreds of miles from their old home in Canada and were compelled to depend upon their own resources. They received news of the outside world only through the trappers and traders who made infrequent visits to them. Unlike the later pioneers who came over the mountains, the French liked to settle in compact villages, with the houses so near together that the people could talk with each other from their doors. When the emigrant from the Atlantic coast crossed the mountains, he settled as far as he could in safety from his nearest neighbor and only lived near his fellow pioneer when danger from the Indians made it necessary. He wished to be a great landholder and settle in the midst of his untamed acres which were to be for him and his children a prosperous farm. But the Frenchman did not care to hold much land, because he was, first of all, a trader or hunter, and agriculture had only a secondary interest for him. He was interested in retaining the forests as they were, the undisturbed home of the fur-bearing animals. Farthest from the centre of the village was the expanse of forest and prairie of hundreds or perhaps thousands of acres which could not be held in private ownership. This was the common pasture land of the village and the source from which each man might gather the fuel he needed and the timber for making or repairing his dwelling. Nearer the village was the common field enclosed by a fence, in which sections for cultivation were assigned to the different heads of families according to the needs of each or his taste and ability as a farmer. The

community of goods did not extend beyond this, each man taking care of his own field or garden, though the time for agricultural operations was fixed by village regulation. In some places there was private land holding without communal regulation. The village itself was located with reference both as to use as a trading station and as the seat of an agricultural community. It was usually near a river for convenience of access by the traders and in some fertile prairie region. It was generally surrounded by a stockade and guarded by a fort. The houses were simple, plain, and uniform. Each homestead was surrounded by its own separate enclosure of a rude picket fence adjoining others on the right and left. The houses, generally one story high, were surrounded by sheds and outbuildings. The walls were constructed of rude framework, having upright corners and studding connected horizontally by means of numerous cross-ties, not unlike the rounds in a ladder. These served to hold the "cat and clay" with which the interstices were filled and out of which the walls were made and rudely plastered with the hand. "Cat and clay" is formed of mud or clay made into a soft mortar which is then mixed with cut straws or Spanish moss cut fine, instead of hair. The chimneys were made of similar materials and were formed upon four long corner posts converging toward the top to about one-half or less of the space below.

In these primitive villages there was abundant social life, with festivities of various kinds, especially when the men returned from their long journeys into the wilderness. There were village schools, and the priest had charge of the educational as well as the religious life of the people. But the educational ambition of the French settler, as well as the possibility of his satisfying it, was very small. In religion these people were devoted Catholics. On Sundays they all flocked to the rude little church where they listened unquestioningly to what the priest had to tell them. After mass they gave themselves up to social amusements.

In these primitive communities there was little division of labor. Each man did for himself the little mechanical work necessary. The missionary priests had encouraged agriculture, which could be carried on by those who, by reason of youth or old age, were incapacitated from engaging in the more dangerous and arduous labor involved in the fur trade. Orchards of apple trees grew near some of the villages. Fields of corn and wheat furnished the villagers with their supply of meal and flour. Hides, tallow, and flour were exported to New Orleans. An attempt was made at mining, especially in the neighborhood of Kaskaskia, but this was quickly given up and the miners became farmers and trappers. The occupation which appealed to the young men more than anything else was that of the trader and trapper. The youths heard wonderful stories from the men who had trapped and traded in the distant north and west toward the headwaters of Mississippi and Missouri Rivers and they desired to emulate them. It was a wild, rough life, full of stirring incidents and many dangers. By it the French and the Indians were brought into close contact for many months at a time. Because of their lack of contact with outside civilization, these French pioneers developed customs and habits of their own. The hunter, living like the Indian, became like him in many ways: resourceful in times of danger, impatient of the restraints of civilization, and often cruel. The customs and regulations of organized society concerned him very little, because most of his life he had to be a law unto himself. After the hardships of the wilderness, he followed the example of his dusky fellow hunter in making the visit to the settlement a time of ease and revelry.

The settlement government was a very simple one. There were the village laws and customs, with the commandant, representing French law and authority, to enforce them in an autocratic, patriarchal way. The French in the Mississippi settlements had no comprehension of the desires that led to the struggle for independence which took place

in the British colonies. If they did not like the rule at the settlement, there were the boundless forests with all the liberty that one could ask. Almost equal in authority to the commandant was the priest, the final arbiter in matters of education, morals and religion. He ruled a people who were very zealous in the observance of all the services of the church, but not so strict in their heed of the principles of the moral law.

Some contrasts between these settlers and those beyond the mountains, their future conquerors, are worth noticing in trying to determine the measure of French influence on the future of the valley. And from this we may gain some conception of what the valley would have been if they had kept it in their hands. They were not good colonizers. As we have seen, their settlements were small and of slow growth. It was not their intention to subdue the land but to leave it as nearly like they found it as possible. Their villages were centres for trade, places where the white man and the Indian might meet for the exchange of their goods. The British settler in the northeast or south was essentially a man of the home; he was away from it as little as possible and only at long intervals. The houses in the little villages of the Illinois country were the places to which the trapper and boatman and the *coureur de bois* returned only at intervals of six, twelve, and sometimes eighteen months. This had a marked effect on the home and social life of the community, and took from local affairs well-nigh all interest; whereas to the New Englander, and to a less extent perhaps to the Southerner, local affairs were matters of vital importance. This was true also of political and religious institutions. The struggle which the British colonies carried on against the mother country on the subject of taxation was something entirely beyond the simple-minded trader of the Illinois country. He did not care for any share in the government of his country. It was not for him to dispute about representation and equality of taxation. He took such matters without question from those who were

over him, with the same confidence that he took his religion from the priest. The contrast is often drawn between the French and the British in their treatment of the Indians and generally to the disadvantage of the British. The Frenchman was on friendly terms with the Indians because there was so much in common in their lives. They were alike restive under the restraints of civilization, even the crude form of it which they found at the trading post. But the friendship of the Indian and the French trapper was not a civilizing one. It was a case where the higher culture gave way before the lower, because it was transferred into the environment of the lower and did not have the strength or the will to resist.

We will now consider the British in their relation to these lands drained by westward flowing rivers. Here the pioneers were the hunters and trappers and the men who journeyed into the wilderness for the pure love of adventure. We do not know the name of the first Englishman who was bold enough to cross the mountains or float down the rivers toward the west. It is quite probable that such journeys were made in the seventeenth century. The restless, adventurous English cavaliers could not remain long in tidewater Virginia without feeling a desire to solve the mystery of the mountains. The distant ranges of the Blue Ridge would be a perpetual challenge to the most adventurous among their number.

The gayest of these early exploring trips was one undertaken by Governor Spottswood in 1710. In the century since the settling of Virginia little was known about the mountains which could be dimly seen in the distance. The forests between the tidewater settlements and the mountains had not been explored in such a way that the Virginian had any sufficient knowledge of them. Spottswood invited a company of his friends to go on an exploring expedition with him. They set out well equipped. They could depend upon the game killed for their supply of meat, and they took an abundant supply of drinkables with them:

Virginia wine, red and white, Irish usquebaugh, brandy, two kinds of rum, champagne, canary, cherry punch, and cider. These gay explorers crossed the Blue Ridge at Swift Run Gap. At the summit they named one mountain Mount George in honor of the king, and another Mount Alexander after the governor. They descended into the valley of the Shenandoah, which they named the Euphrates and recrossing the mountains returned to Williamsburg. The men who made this expedition had to take along a number of extra horseshoes because of the rocky and difficult climbing. In memory of this the governor presented each one of them with a tiny horseshoe of gold. From this incident they are known as "The Knights of the Golden Horseshoe."

Long hunting trips were frequent in the early part of the eighteenth century. The hunters brought back information about the land but did not directly attempt to induce the planting of settlements. Like the French they were interested in it as a hunting ground; though there were occasionally some who looked forward to the settlement of the region. One of these was Dr. Thomas Walker, who made a six months' journey into what is now the State of Kentucky. In his journey he discovered Cumberland Gap and explored Cumberland River, naming it after the Duke of Cumberland. As a result of this journey a land company was formed to which a grant of eight hundred thousand acres of land was made in 1749. In 1750 Walker returned with a party of surveyors to prepare the way for the future colonists. On April 25th, of the same year, they built a house on Cumberland River which was probably the earliest structure built by a white man in Kentucky. This remained for many years a solitary post.

One of the earliest attempts at settlement beyond the Alleghanies was made by Thomas Lee, of Virginia, in 1748. An association of twelve men in Virginia and Maryland, with Mr. Hanbury, a London merchant, formed the Ohio Company. On petition to the king five hundred thousand acres of land were granted, on condition that one hundred

families be settled on the land within seven years and that the company build and maintain a fort suitable for the defence of the settlement. As a preliminary the company sent out Christopher Gist to examine the country and select a suitable place for a settlement. He saw the necessity of coming to favorable terms with the Indians who had been accustomed to trade with the French and accordingly he made a treaty with them at Logstown in 1752 by which they agreed not to molest any settlements that might be made on the southeast side of Ohio River. When Lawrence Washington became president of the company he attempted to get Pennsylvania Dutch to settle in this section. They were willing to go if they could be exempt from paying taxes for the support of an Episcopal clergyman. But Parliament was busy about other matters so that nothing was done about it. Gist himself made a settlement with eleven families in the valley of the Monongahela.

None of these settlements were important, nor did they suggest the greater movement to come with the revolutionary period. The British kept to the east of the mountains and on the banks of the eastward flowing rivers because of the great obstacles to their further advance. The first of these hindrances was the possession of the country by the French. They claimed by the treaty of Aix-la-Chapelle the lands drained by St. Lawrence and Mississippi Rivers. They had no population for filling this immense territory, but wished to hold it for the future. The British colonies were increasing rapidly and it was only a matter of a few years before the two powers would come into conflict. Between the two were powerful Indian tribes stretching from Lake Champlain to Alleghany River. Southwest of these was a great section of wooded country, with very few Indian and no white inhabitants, extending to the valley of the Tennessee. Through this region, especially in the valley of the Ohio, the French began to assert their claims. Expeditions were sent into the valley to raise the French flag and to assert their ownership of the country by burying

lead plates bearing the French arms. The French soon saw that they must fight if they were to hold the land they claimed and so built a chain of forts. The most important point was at the junction of Alleghany and Monongahela Rivers, a point which Washington on his exploring expedition had noted as the place of all others to be held, if the British were to advance westward. The French drove out the few British who were already there and showed their determination to hold this strategic point by building Fort Duquesne. War broke out and in 1759 Quebec was captured, which practically settled the fate of France in the New World. By the treaty of 1763 France was left without a foot of soil on the American mainland, and so this obstacle to western colonization disappeared.

By this same treaty of 1763, Great Britain accepted the Mississippi as the westward limit of her colonies, thus giving up her claim to the lands farther west, and the colonies made no objection to this change. But another obstacle even more serious than the French occupation now appeared to put a stop to westward expansion. The country to the west of the mountains was reserved as crown lands and the colonists were excluded from making settlements beyond the seaward slope. These lands were left in the undisputed possession of the Indians. The colonists were forbidden to make any purchase of land from the Indians or to form any settlements "westward of the sources of the rivers which fall into the sea from the west and northwest. . . . And all persons who have wilfully or inadvertently seated themselves upon any lands west of this limit are warned forthwith to remove themselves from such settlements." The reasons given in the royal proclamation were that irregularities might be prevented in the future and that the Indians might be convinced of the desire of the British to treat them justly; but these were not the real ones. The attitude of the British government was one of opposition to the foundation of inland colonies and the reasons for this are set forth in the report of the Commissioners

of Trade and Plantations in 1768. These reasons give a good illustration of the British colonial views of the period and show why the Revolution was necessary. In these reasons it is set forth that planting new colonies beyond the mountains would be contrary to the great object of colonizing America, which was "to improve and extend the commerce, navigation and manufactures of this kingdom." If these interior colonies should be allowed, the immigrants from foreign lands would be attracted to them instead of settling near the coast, and the older colonists also would be allured by the ease of gaining a living on the more fertile lands and would move into the interior where they could supply their own wants but would not supply the wants of the kingdom. If they settled in the interior they would not be able to buy the manufactures of Great Britain and they would probably undertake manufacturing for themselves. A few years later than this Lord Hillsborough expressed the fear that if these colonies should be established in the interior there would be danger of an independent State after a time when they no longer looked to the home country for their manufactured goods, and there was also danger that these colonies would draw emigrants from England, which at that time had no men to spare. It was desired to extend the fur trade, but this could only be done when the Indians were left in undisputed possession of the forests, and any colonizing beyond the mountains would be injurious to this branch of commerce. The British colonial policy was cold and selfish. The only object seemed to be to conduct colonial affairs so as to bring in the greatest possible revenue to Great Britain.

The first obstacle to the settlement of the West was overcome when Quebec fell and the French lost their hold on America. The second one was overcome with the treaty of peace which gave the colonies their independence. But a third and more formidable obstacle remained to trouble the would-be settler for many years. This was the Indian who claimed as his own hunting grounds the lands which

the colonists were so eager to possess. It is customary to regard the rights of the Indians to these lands as unquestioned, and that the white man was an invader when he went over the mountains, but it should be remembered that large tracts of land were unoccupied; that there were other great sections which were in dispute between rival tribes; such as the greater part of Kentucky and Tennessee, and that the white man had as good a right to these as the Indian. It should also be remembered that much of this land was obtained from the Indian by direct purchase or treaty. At the best, the winning of the West from the Indian is a story of a rough, wild period in which there was great cruelty on both sides. It was a weary time of massacre and retaliation in which it is hard to tell whether the white man or the Indian was the more cruel.

The natural difficulties of the journey over the mountains were not great, certainly not to be compared with the overland journey to California. The mountain barrier, although consisting of range after range running northeast and southwest, was chiefly a difficulty because of the great distance between the settled country in Virginia and the fertile lands beyond the barrier. The physical difficulties compared with those of the Rockies were comparatively small. The mountain ranges were lower. There were practicable passes, and there were the river valleys which made it possible for emigration to pass the mountains gradually. There were places where the sources of the rivers flowing into the Mississippi came very near to the sources of the rivers flowing into the Atlantic. In the trough separating the eastern and western ranges of the Appalachian Mountains the pioneer might journey for hundreds of miles without difficulty. The journey northward to Ohio River or southward along the branches of the Tennessee presented no difficulties to the pioneer.

The first westward movement was from the Central and Southern colonies. The great emigration from the North did not begin until after the Revolution. One reason for

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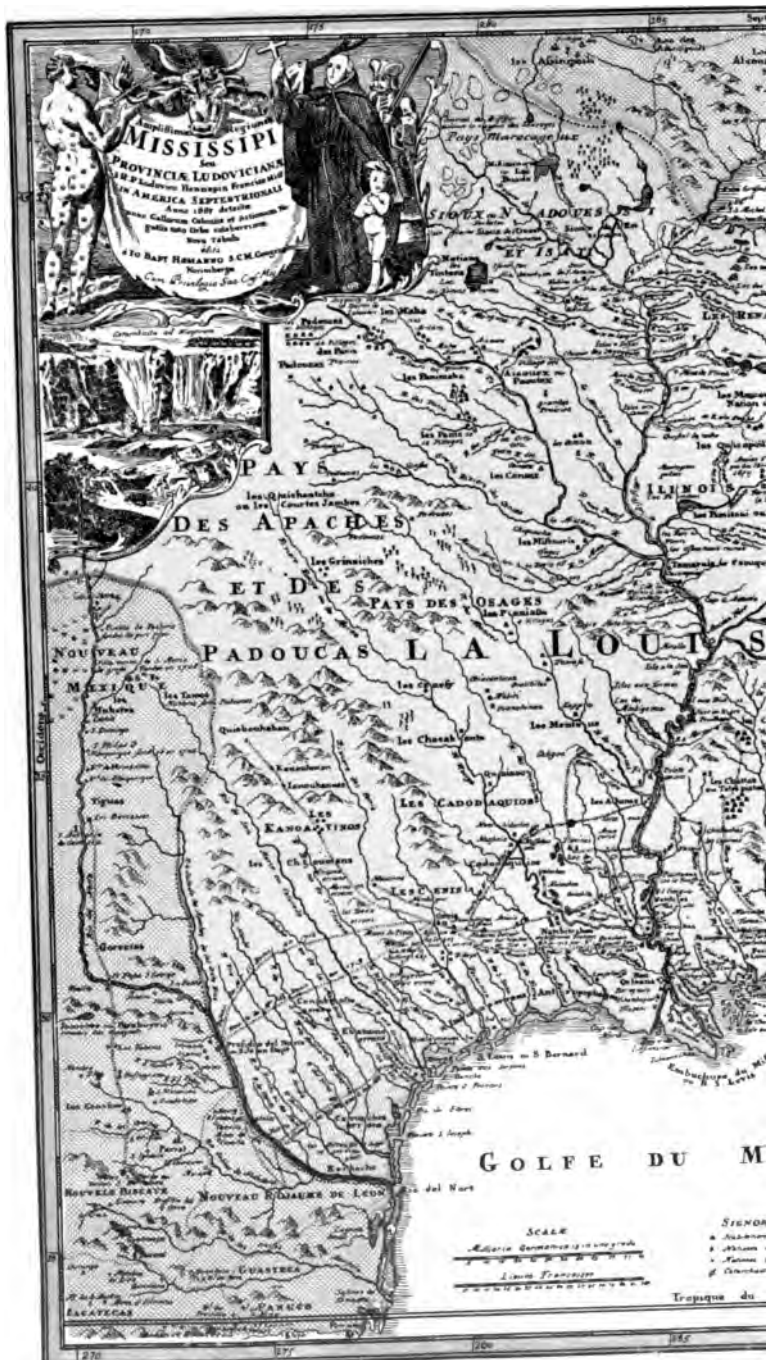

Map of the Mississippi region and Province of Louisiana, by the Fider H
as it shows the route of Saint-Denis in 1715-1716. *From the*

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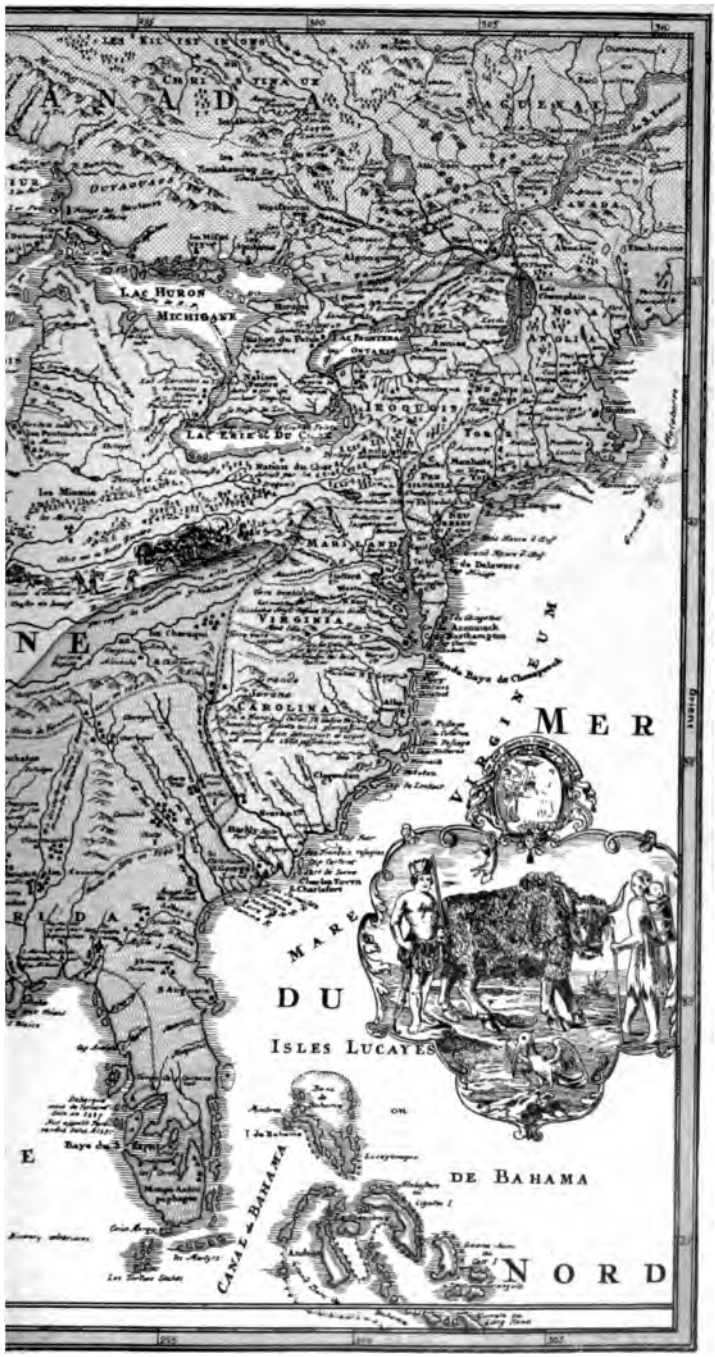

87, but evidently published in the first half of the seventeenth century, *private collection of Julius F. Sachse, Esq., Philadelphia.*

this was that the conditions in the South favoring expansion did not exist in New England. A large number of New Englanders were men of the city or village, but even the farmers needed little land. For the farmer cultivated his land with perhaps the help of his sons or the aid of a laborer or two. But in the South the agricultural methods were different. The Southern planter chose a place where he could have his own dock on the Potomac or some other great river from which to ship his produce—his tobacco, especially, directly to England, and each plantation was an entity; villages and cities were few and with notable exceptions of little consequence. Because of the wasteful methods of cultivation a planter needed thousands of acres of tillable land. Gradually the new lands were appropriated and the settlements were pushed into the interior.

But in addition to these planters, the representatives of the English cavaliers in America, there came in the early part of the eighteenth century a large number of Scotch-Irish. In the development of Virginia and Pennsylvania, and especially in the growth of the West, they were of great importance. To understand this people we must go back to the reign of James I. and the colonization of Ulster in northern Ireland. Lands were confiscated because of a recent revolt and given to new Scotch and English settlers. This was the beginning of that prosperity which raised the northern section of Ireland far above the rest of the country. The bogs and fens were transformed into a garden by these English and Scotch. By 1700 their number had reached a million. They cordially disliked the native Irishry as a whole, though there are a few cases of intermarriage. The Scotch-Irish were nearly all Lowland Scotch and intensely Protestant in their views. They hated the Catholics and had much the same feeling toward the Episcopal Church. Their coming to America forms an interesting parallel to the Puritan immigration. Like the Puritans they were oppressed by the religious regulations of the home government in all sorts of small ways. They endured this tyranny for

many years, but as there seemed to be no improvement they began to leave Ireland for America. It is probable that not less than half a million had arrived in America at the outbreak of the Revolution. When we consider the aggregate population of the colonies it will be seen that the Scotch-Irish made up one-sixth of the bulk.

The emigration to America, which began about a hundred years after the landing of the Pilgrims, was mainly to the central and southern parts of the country, though a few Scotch-Irish went to New England. The greater number entered the country at Philadelphia, a smaller number at Charleston. They did not stop in the tidewater regions, because the good lands were taken up and because they did not care to be in too close contact with Quaker or Episcopal neighbors. They pushed on beyond the settled portion of the colony into Western Pennsylvania and into the foothills of Carolina, and in 1730 they began settling in large numbers in the Shenandoah Valley in Virginia. They were the men who chiefly built up the commonwealths of Kentucky and Tennessee. This strongly Presbyterian Scotch-Irish element is the most important part of the immigration that first broke its way through the mountains, but in this advancing population there were other elements of equal value; some French Huguenots, a few Germans and a sprinkling of the tidewater Virginian cavaliers. But these became, in the course of a generation or two assimilated into a more or less homogeneous people with marked Scotch-Irish characteristics. In religion they were largely Presbyterian and held views on local freedom, the relation of Church and State, and slave-holding, in contrast with those of the early settlers. They were thrifty, small farmers and could use the land in the narrow valleys of Virginia, which, because of the isolation and smallness of the tracts, was not regarded as profitable by the tobacco planter. Because of the natural increase in their numbers, and the large immigration that for years augmented their ranks, they pressed more and more upon the great barrier of the Alleghany Mountains.

In their isolation from the seaboard and the town centres, they became, even before they crossed the mountains or settled in the distant mountain valleys, typical frontiersmen, hardy, stern, hospitable, self-reliant, religious, and, of course, lacking much of the refinement of the seaboard dwellers. They became crowded and it was only a question of time before some more adventurous than the others would go where they could have more room, into even more distant mountain valleys or beyond the mountains into the fertile regions about which the hunters were bringing them vague rumors, a land where there were no permanent inhabitants, where there was an abundance of game, a well-watered land and one already fitted for the plow.

The man best known in connection with this first movement over the mountains is Daniel Boone, in every way a typical pioneer. He was not the first explorer of Kentucky, but the one whose work was of most permanent value. He was born in Pennsylvania in 1734, of English parentage. In 1750 his parents sold out their holding, and journeyed between the Alleghanies and the Blue Ridge to the Yadkin Valley in North Carolina. Here, even more than in the frontier home in Pennsylvania, the Boones lived a pioneer life. Like the settlers around him Boone married young and began farming, but the life even here on the confines of civilization was too quiet for him, and with the restlessness which possessed him throughout his life he turned toward the west. From the time of his settlement on the Yadkin he, like his associates, made many hunting expeditions. In 1769, with five companions he made a long journey over the mountains. After five weeks of wandering through Cumberland Gap and toward the northwest, Boone and his companions reached the blue grass region of Kentucky. They hunted the abundant game in this beautiful open country through the summer, but in December were captured by the Indians, who warned them to leave the district and then set them free. Boone, however, remained and continued hunting until 1771. His great

success as a hunter induced others to follow his example. They went in large companies, for protection against the Indians, who resented this intrusion upon their hunting grounds. The hunters compared the hunting grounds and rich fields of the Indian country with the narrow valleys beyond the mountains, and planned to remove their families to this fertile district. This determination was strengthened by the treaty of Fort Stanwix (1768) which, it was thought, had given the whites a legal right to occupy these Indian lands, though in truth the lands so granted did not belong to the Six Nations by whom they were ceded. In 1769 settlement began on Watauga River. New settlers came in rapidly and the villages on Watauga and Holston Rivers, and in the neighboring valleys, grew.

The settlers in the Ohio country had so much in common that a general description of their mode of life will apply to them all. They were anxious to possess land and they got as much of it as they could hold; they felt that it was the source of future wealth if population continued to increase in their direction. The pioneer preferred to build his house and live by himself in his clearing a long distance from his nearest neighbor. Indian troubles might compel him to live in the compact village protected by the fort, but that residence was regarded as only temporary. Their houses varied in size and comfort according to the wealth and skill of the occupant. They were made of logs fitted into each other at the corners by notches cut into them so that they held each other in place, and made a comparatively tight wall. The spaces between the logs were usually filled with mud-mortar or moss. In these well-ventilated houses there was no need of suffering from cold, because fuel was always abundant and could be obtained with no expense beyond the labor involved in cutting it. Each house had its great fireplace built of stones when these could be obtained, or, when stones were lacking, of mortar-covered logs. The floors of the poorer houses or of the temporary homes of the settlers were of earth, beaten

down hard. The better houses had floors made of puncheons. These were logs split lengthwise with the flat side hewn as smooth as possible. There were generally no cellars, so that these puncheons rested directly on the ground or on round logs; the flat surface of the puncheon uppermost. The roof of the house was made of clapboards which were formed by splitting suitable timber into thin boards. Often the house had only one room with perhaps a loft overhead where part of the family slept. The interior of the house was sometimes divided into rooms by hanging curtains formed from the skins of wild animals. There were no cupboards, nor was there need of any. Pegs driven into the log walls supported the scanty wardrobe of the family. In these early days, clothing and articles for household use were either made by hand or brought from the east, and in the latter case often with much danger or labor. As a result each cabin held only what was absolutely necessary. The ingenious settler furnished his home as easily as he made the house. A seat was quickly made by boring three holes in a board and inserting stout sticks for legs. It was equally easy to make rude but durable tables. When the babies came, and they came very frequently in these families, it took only a short time to make the cradle. A log sawed to the proper length and hollowed out on one side furnished a cradle in which the backwoods baby slept as serenely as did his more luxuriously reared contemporary in the homes of wealth in the east. There were homemade bedsteads well supplied with bearskins and buffalo robes instead of woollen blankets. The cooking utensils brought from the east were supplemented by those of home manufacture. The iron pots and kettles, and the pewter spoons and plates were imported, but to these few articles of necessity and luxury were added wooden spoons and plates or trenchers. The wooden plates were often used in preference to the others because they did not dull the knives.

When a family took up land, the first work was to clear a field and plant a crop of corn. Sometimes a provident

pioneer did this work the year before he brought his family to their new home. He selected his land, usually near a stream or spring so that there would be a sure supply of water, cut down the trees if the land was forest covered, planted a crop and gathered it, so that a year's supply of food was ready for his family when they came over the mountains the next spring. But such provision was exceptional. As a rule, the entire family shared in all the pioneer hardships. Clearing the land was an arduous task. The trees were girdled, so that they quickly died. Then they were chopped down and burned into logs. This was done by building fires of smaller wood at suitable distances along the logs until they were burned in two. When these logs were too large for the owner of the land with the help of his family to get them together in piles, the neighbors were invited to a log rolling. With the assistance of these additional men and their teams of horses or oxen, the logs were piled up and burned. A log rolling was a time of good cheer and fellowship. There was an understanding that the man who was thus assisted should be ready to do his neighbor a similar favor when called upon. The stumps near the house were cut down as soon as possible, that they might not furnish hiding places for the Indians. In the more remote sections of the farm they often remained for years.

After the crop of corn was planted, the settler was obliged to depend largely upon his skill with his rifle for the support of his family till the corn was ready to eat. Few men have obtained such skill as hunters as did these early pioneers. Their rifles were their constant companions and often their only dependence for food for months at a time. Constant practice and constant need made them the best marksmen the world has ever known. Their main dependence was upon the deer. Bear meat was much relished and was very plentiful. An abundance of wild turkeys and immense flocks of wild pigeons furnished them a variety in their diet. The fare was rough, wholesome, and abundant,

and rarely, except as a result of Indian raids, when the crops were destroyed, was there suffering from hunger.

The life was rough and hard, but there was no lack of amusements. Whether the settlers lived in the villages or on the scattered farms, there were many occasions that brought them together for social enjoyment. Weddings were occasions of great festivity. When a newly married couple wished to begin housekeeping, the neighbors gathered and in a few hours built them a house. These social occasions were enjoyed by all the members of the family. Dancing parties were very frequent. There were sure to be trials of strength when the men came together, to show their skill in wrestling, boxing, and so forth.

The distinctive feature of the dress of the backwoodsman was the hunting shirt, made of coarse linen or deerskin. It was a loose frock, reaching nearly to the knees, fastened at the waist by a belt from which hung the bullet pouch and hunting knife. The collar of the shirt was fringed and ornamented according to the taste of the wearer. The common head covering was a cap made of the fur of some animal, with the tail of the animal hanging from the back of the cap. The feet were protected by homemade moccasins, which could be easily replaced when worn out. These were very unsatisfactory in wet weather, as they were quickly soaked through and gave but little protection. In cold weather the feet were kept warm by stuffing the moccasins with leaves or moss. Leggings of buckskin and the Indian breechcloth completed the costume. The dress of the women was very simple, consisting of a linsey petticoat and a loose sack or overgarment. In summer their feet were bare; in winter they wore moccasins similar to those worn by the men.

There were two distinct classes of settlers who crossed the mountains. The first was the men of Scotch-Irish, German or Huguenot ancestry, who did it to better their condition and to provide homes for their wives and children. They were fearless, liberty loving, and generally strongly

religious. They were the ideal men for pioneer conditions, trying enough at the best, and doubly so when men are not animated by some great impulse. Unfortunately there also came the ne'er-do-wells from the tidewater settlements,—some who were in disgrace at home or were wanted for crime; others who had come over bound to service for a number of years and had run away from their masters. This vagabond, criminal element made trouble for the new settlers, sometimes by joining the Indian foes, always by living lawless lives. But the law-abiding settlers, in simple, effective and just, if not strictly legal ways, protected themselves against the outlaws.

There were degenerating tendencies amongst the settlers themselves. The backwoods life cultivated self-reliance and courage, but there was necessarily a lack of refining influences. There was little need of education and in most cases little desire for it. Religious practice and thought suffered deterioration. There was a lack of restraint, and instead of the regular religious services of the longer settled communities there were only infrequent meetings, perhaps once in the year, in which the religious feelings expressed themselves in grotesque forms.

About most of these early emigrants we know very little. But here and there one stands out in such a way as to attract our attention. In the Watauga settlement there was such a man, James Robertson, who was, like most of his companions, Scotch-Irish. Robertson, because of his strength of character, was destined to take a leading part in the affairs of the new community. He came to the Watauga settlement in the second year of its existence, in 1770. He cleared land, planted and harvested a crop of corn, which he stored away. Then from North Carolina he brought his family and a party of eighty friends, sixteen families in all. Robertson was, first of all, a pioneer and settler, though a great hunter and Indian fighter. He built his house on an island in Watauga River. His ability brought him at once into prominence as a leader of the colony. This, too,

in spite of a very limited education, for he could not even read or write until middle age, when he was taught to do so by his wife.

Another leader in the early days of what was to be, after many vicissitudes, a great commonwealth was John Sevier, a man who in many ways was a sharp contrast to Robertson. He was highly educated, of distinguished appearance, and of French Huguenot ancestry, and one of the most reckless and dashing Indian fighters that the country has ever produced. This combination of qualities gave him a strong hold on the frontier society. Under the leadership of Robertson and Sevier, a government was formed with a written constitution, which has peculiar importance in institutional history and will be more fully considered in a future chapter. Under this constitution the Watauga community became self-governing and prosperous.

Similar colonizing movements were going on in other parts of the lands recently acquired from the Indians. In 1774, James Harrod and forty companions entered what is now central Kentucky and established a village named in honor of their leader, Harrodsburg. About the same time Boonesborough was established. In Boone's wanderings he had come in contact with Colonel Henderson, of North Carolina, who, influenced by Boone's account of the fertility of the land organized a company called the Transylvania Company for the purpose of establishing a colony. A fort was built on the selected site, and in 1775 Henderson and a party of emigrants formed the settlement of Boonesborough. The fortifications of this place were a type of the defences which during the early period, as well as against the Indians at the time of the Revolution, did good service. Shaler, in his history of Kentucky describes the Boonesborough fort as follows:

"The fort was laid out as a parallelogram, about two hundred and fifty feet long and one hundred and twenty feet wide; at the four corners log houses were built; the part of the walls of those block-houses that lay beyond the

fort were without windows, but pierced with loopholes, from which a clearing fire could be delivered along the curtains of the fort. The sides were formed in part by the outer walls of the cabins, and in part by lines of stockade, made by placing squared timbers vertically in the ground and binding them together by a horizontal stringer or stay-piece on the inside near the top. The steep roofs of the houses were covered with thick slabs of riven beams, held in their places by means of horizontal bars of wood laid upon them and tied by withes to the rafters. Iron was little used in these early constructions of the wilderness, and to this day houses are built in the mountain districts of Kentucky which do not contain a pound of the metal. Two gates of stout framed wood in the middle of the longer side, commanded on the inside by the small windows on the inside faces of the houses, and on the outside by the loopholes of the block-houses, completed the outline of this primitive castle. As long as artillery was not used—and in the early fights it usually had no place—such defences were all that could be desired. The central square gave a large place for herding cattle. Each cabin was separately defensible, and the tolerably complete separation of the several houses made them safe from conflagrations; one cabin could be burned without involving the destruction of others."

Shortly after the settlement of Harrodsburg and Boonesborough, other settlements, Boiling Springs and Logan's, were formed within the limits of the Transylvania claim.

By 1775 the settlers had gained a firm foothold in Kentucky, and numbered perhaps three hundred men. The harvests were abundant, and the people were hopeful. One day in this same year, a little party of hunters were encamped at the hut of one of the number on Elkhorn River, when a message came that war had broken out between Great Britain and the United States; and the hunters, to show their patriotism, named the spot on which they were encamped "Lexington" in honor of the Massachusetts patriots who had fired the first shots of the American Revolution.

CHAPTER II

THE WEST IN THE REVOLUTION

THE men of the western settlements were a liberty-loving people, and many of them had crossed the mountains that they might obtain greater freedom. They considered themselves capable of self-government, and their isolation did not prevent them from feeling a keen interest in the struggle of their fellow countrymen. The tax on tea did not concern them very much, because tea, other than the homemade article, was a rare luxury in the western clearings; but they felt the selfish and oppressive policy of the British government more keenly, if possible, than did their eastern neighbors. The Quebec Act of 1774, by which the boundaries of Quebec were extended to Mississippi River on the west and the Ohio on the south, was looked upon as an oppressive measure, because one of its objects was to deter the settlement of this part of the country. The terms of the act were such that the government of the Ohio country might, without question, be arbitrary, and it promised to be more favorable to Catholics than to Protestants. It was also believed that under the Quebec Act the settler going into this section,—out of which five great States grew later,—would find himself under a far worse government than that of the eastern colonies. The great majority of the western men, therefore, threw themselves heartily into the Revolution, on the American side. There were a few Tories among them, some perhaps favoring the king from conviction, but most

of them because they felt that in antagonism to the majority was to be found greater opportunity for plunder. These conscienceless Tories were the desperadoes and outlaws from the seaboard settlements, who had fled beyond the mountains and lived as outlaws or joined the Indians. Neither the British nor the Continental governments had troops to spare for this fight for the possession of the West; so that, as a rule, the battles west of the Alleghanies and east of the Mississippi were between the settlers and the Indians with or without Tory leaders. It was a conflict on both sides of fierce and relentless hatred. On the Atlantic slope, the Revolution was a struggle for liberty. In the West, it was a war for liberty and life; the Indians, knowing that, now if ever, with the help of their British allies, they must drive the invaders back, and the settlers fighting for home and life against a desperate and remorseless foe. In these battles the white men adopted the Indian method of warfare, fighting from behind trees in the wilderness and picking off their enemy with the unerring rifle. The contestants were very evenly matched in this kind of warfare, in which there was room for the exercise of much individual strategy on both sides and very little call for concerted action by large bodies of men. The frontiersman was too independent to submit long to the discipline of regular army life, but as an independent fighter he was unequalled. There were a few general engagements, but, as a rule, it was the stealthy foray of a body of Indians against a defenceless settlement, in which as many scalps were taken as possible with the least danger to the Indians. Then there followed the expedition for avenging the assault. Fierce battles were carried on in the wilderness, with only a score, or even less, men on a side. It was a long, hideous series of ambuscades and massacres.

There can be no question but that Indian raids were encouraged by the British. The headquarters for the campaign against the western settlers were at Detroit, where Colonel Henry Hamilton, known amongst the settlers as

the "hair-buyer" was in command. In March, 1776, he received orders from his superior officers to organize Indian raids against the frontier and his work was to destroy and drive beyond the mountains all the settlers, and we have his own statement that up to July, 1777, he had sent out fifteen Indian expeditions.

The first Indian attack upon the Watauga communities was in June, 1776. The settlers had been warned by a friendly Indian woman and so had had opportunity to withdraw into their forts. The Cherokees to the number of two thousand advanced to the attack. A party of six hundred warriors assailed the Watauga fort where Robertson and Sevier were in command. This fort was held by forty or fifty men and for three weeks endured a siege which the Indians were finally obliged to raise.

The operations of the savages in Kentucky were directed mainly against Boonesborough. With a persistence unusual to Indian warfare they tried repeatedly to destroy this fortification. A body of Indians on their way to the siege of Boonesborough surprised Daniel Boone and a party of men who were at the Lower Blue Licks on Licking River making salt to supply the stations. They were all captured and well treated. Boone and ten of his companions were carried to Detroit where Hamilton tried to ransom Boone from them, but the Indians had become greatly attached to their captive and after the return of the warriors to their home, he was adopted as one of the tribe. In June, 1778, Boone, discovering that a considerable force of Indians was preparing to march against Boonesborough, escaped and made the journey of one hundred and sixty miles to Boonesborough in five days. On August 8th, a combined party of British, French, and Indians attacked the fort, subjecting it to a regular siege, in the course of which the French commander persuaded Boone and eight others to come out of the fort for a parley with an equal number of the besiegers. They were treacherously seized but escaped. After an ineffectual attempt to tunnel the fortifications the besiegers withdrew.

There were some unique features in this struggle in the West. It was a fight against Indians; it was an effort to gain independence from Great Britain, but beyond this it was an attempt to conquer lands which the British government did not recognize as colonial territory. We have the strange spectacle of a little group of struggling colonists fighting for independence and at the same time fighting to gain new territory. This movement toward expansion was the act of the western men and has not been given its rightful place in the ordinary histories of the Revolution. The work of the few frontiersmen had an influence whose far-reaching effects were not to be apparent for well-nigh a century.

In this first movement for the expansion of the United States, George Rogers Clark stands as the undisputed leader. Born in Virginia, he came as a young man to Kentucky and took an active part in the defence of that country against the Indians. He engaged in the political problems agitating Kentucky and assisted in securing the organization of Kentucky as a county of Virginia. In the early years of the war, the country suffered greatly from Indian depredations, and it seemed to Clark that these were inspired by the British forts at Detroit, Vincennes, and Kaskaskia, in the Illinois country, and that the Indian depredations could only be stopped by the capture of these centres of influence. In order to be sure about this, he sent two young men as spies through the Illinois country. These spies confirmed his suspicions that, while there were very few of the French young men in the marauding parties, the French settlements were used as recruiting grounds for the Indians' expeditions. It did not seem to him that it would be difficult to win the support of the French to the American cause. They were little interested in the questions at issue between Great Britain and the colonies, and would without difficulty change their allegiance if they could be left in the enjoyment of their religion and other privileges. Another reason for supposing that there would be little trouble in

conquering them was the great fear which the French had of the borderers.

The Kentuckians had no men to spare for such a hazardous undertaking; so Clark left Harrodsburg on October 1, 1777, and made the journey to Williamsburg, the capital of Virginia, having for his companions a number of persons who had tried to find homes in the West and were now returning discouraged. Clark laid his plan for the conquest of the northwest before Patrick Henry, at that time Governor of Virginia. His coming was well timed, because the patriots were rejoicing in the news of Burgoyne's surrender. Henry was enthusiastic over the plan, but could give Clark little for the expedition except his sanction. He made Clark a colonel, and authorized him to raise seven companies of soldiers, each company to consist of fifty men. But because of the demand upon Virginia for men to be employed in its own defence, Clark was asked to raise recruits for his expedition in the country west of the mountains. He was given £1,200 in paper money, and orders on the authorities at Pittsburg to furnish him the necessary supplies. Henry also gave Clark to understand that every effort would be made to give to each soldier three hundred acres of the conquered country. Two sets of instructions were given Clark,—one, public, authorizing him to raise these companies of men for the defence of Kentucky; the other, secret, authorizing him to make an expedition against Kaskaskia. This second set of instructions was necessarily known to a very few, because publicity would have given the British an opportunity to prepare for a defence.

It is evident that Virginia gave little aid beyond its sanction for the expedition, and that its entire success depended upon the man who was the leader. If the expedition succeeded, there would come great advantage to Virginia with very little cost; and if the invasion should fail, the men would not get their bounty lands, and Virginia would lose very little. The national government, as such, had nothing to do with it; it was purely a Virginian affair. This seemingly

selfish attitude on the part of Virginia was necessary because of the precarious nature of the undertaking, because of its own poverty and the need of all its men and resources for home defence. This Virginian colonel, twenty-five years old, who started out to win an empire did not at first meet with flattering success. The over-mountain men were busy in defending their own homes, and did not care to enlist. He finally succeeded in gathering one hundred and fifty men. These and a party of emigrants embarked at Red Stone, on the Monongahela. After touching at Pittsburg and Wheeling for supplies, they drifted down the Ohio till they came to The Falls, the site of the present city of Louisville, Kentucky. Here, on Corn Island, a fortification was built for the protection of the settlers and a depot for Clark's supplies, which he did not care to take with him on his rapid march. A few soldiers were left to guard these. The real object of the expedition, as given in the secret instructions, was now made known to the men, and a goodly number deserted the expedition. Recruits, however, joined Clark at Louisville; so that the whole number with which he began his march against the French settlements was about one hundred and seventy-five.

While at Louisville, he received news of the alliance between the United States and France. This greatly encouraged him, because he thought that the French inhabitants would more readily come into an alliance with the Americans, now that their king had done so. The expedition was made in light marching order and with secrecy and celerity. Scouts were sent out in advance, to prevent Indian surprises, and hunters kept the little army supplied with fresh meat. A party of American trappers was met, who informed Clark that Kaskaskia was well fortified and that the soldiers were well trained. These hunters guided Clark to the banks of Kaskaskia River, where he encamped on July 4, 1778. The only way to capture the town was to surprise it, as the French commander, Rocheblave, had a much larger force than Clark. The surprise was complete.

George Rogers Clark.

From the painting in possession of the Missouri Historical Society.

It was found that no soldier was on guard, but that the garrison was having a merry time with the villagers at a dance. Clark, with his men, suddenly appeared in their midst and made them prisoners, capturing the town and fort without any resistance. It was an anxious night in the little French village. All their lives, these people had heard of the atrocities of the frontiersmen; and since the British had been in control, they had industriously filled the minds of the simple farmers and trappers with stories which, recalled now, made their blood run cold as they realized they were in the power of these dreaded men. Clark ordered all the houses closed, and forbade the inhabitants, on pain of death, to venture out. All through the night the American soldiers patrolled the streets. In the morning, under the leadership of their priest, Father Gibault, the French came to Clark and begged for their lives, stating their willingness to be his slaves, if only their lives could be spared. He told them of the French alliance and the object of the Americans in coming to them, and stated that if they took the oath of fidelity to the American cause they would be given all the liberties and privileges of Americans; but if they did not, they would be allowed to depart in peace. When they were told that they would be undisturbed in their religion, they gladly complied with Clark's requirements, and gave their allegiance to the American government as represented in Clark. They knew little and cared less about the quarrels between the colonies and Great Britain. It required no sacrifice of principle for them to turn from the British to the American side. This treatment of the French at Kaskaskia exhibited the shrewdness and generalship of the American leader. It was an easy thing to surprise and capture the fort and have the people at his mercy; but Clark realized that the success of his expedition would depend upon his treating the people in such a way that they would be his friends. He had a little company of men, far from any help and their base of supplies. They were liable to assert their independence, as some of them had done at Louisville, and desert him one by one or in

companies. At the best, he had no men to leave behind him to garrison the posts which he took. He must win the people as fast as he conquered them.

Cahokia was easily and quickly won to the new allegiance, when a company of French and Americans went to that place and told of the generosity of the Americans. With equal ease, Vincennes came under the American flag. This was accomplished by Father Gibault, who went there and told the story of Kaskaskia and the kind treatment which its conquerors gave the inhabitants. Clark could not spare troops for the defence of Vincennes, but he sent Lieutenant Helm to take charge of the post.

These bloodless victories did not render the conquest of the new country secure. There were dangers from three sides which must be guarded against. The inhabitants who had been so easily won might not remain friendly when they saw the numerical weakness of the conquerors, and especially if they should be approached by British agents. There was danger of a British attack from Detroit as soon as this audacious Virginian conquest should be known; and, finally, there was the ever present danger from the Indians, in alliance with the British, and anxious to keep their hunting grounds from these land-hungry settlers. Clark very quickly had an opportunity to show his skill in meeting the Indian problem, and he exhibited an insight into Indian life and character which brought success in this difficult problem. With his handful of undisciplined and unruly backwoodsmen he was faced by the warriors of the northwest, who could bring against him a savage array outnumbering his force; but he prevented an open conflict by his skill in diplomacy. The report of the surrender of Kaskaskia and Cahokia, spread quickly among the Indians of the northwest, and large numbers of them came to Cahokia to find out the meaning of the change of rulers. Clark's management of a very delicate situation was most skilful. During three days, conferences with the visiting tribesmen were held. On the night of the third day a party of warriors

forced themselves into Clark's room with the apparent object of capturing him. He had expected some such attempt and was prepared for it. The offending warriors were quickly made prisoners by the soldiers who were on guard. Other Indians came and interceded for them and the whole proceeding was treated by Clark with contempt; he did not even take the precaution to remove to the fort, but remained in a private house. The next day the prisoners were brought before the council and Clark addressed them in a manner which seemed to show utter unconcern whether the Indians declared war against the whites or not. He offered them war or peace and they eagerly chose the latter. This settled, for the time, the relation between the Indians and the frontiersmen. The outcome must be attributed to the dauntless courage of Clark and his thorough understanding of the Indian character.

The danger from Detroit was a more serious one. Hamilton, commander at Detroit, was greatly surprised at the capture of the Illinois towns by the Americans and decided that they must be won back again. Extensive preparations were made for this purpose, and Vincennes was chosen as the first place to be regained. To this end Hamilton strengthened his alliance with the neighboring Indians and won over some who had entered into treaty with Clark. The winter journey from Detroit was attended with much difficulty. Helm, who was yet in command at Vincennes first learned of the expedition led by Hamilton when it was only three miles distant, and at once felt that there was strong doubt about his being able to hold Vincennes against the superior forces of the British, as he could place little reliance upon his creole followers. An attempt to communicate with Clark was frustrated by the capture of the messenger.

When Hamilton appeared before the fort, the Creoles deserted the Americans and Helm surrendered with the honors of war. The Creole inhabitants renounced their American allegiance and again became British subjects.

They expressed great regret at their defection from the British cause. Their example was followed by many others in the Illinois country. Thus a good part of the result of Clark's conquest was at one stroke taken from him; and Hamilton, with his army of five hundred British, French, and Indian troops, thought that he had little to fear from his opponent, who was far from his base of supplies and could not muster two hundred fighting men. Nevertheless, Clark immediately formulated a plan to drive back the British, and there is not a braver bit of work in American history, or one which at the outset seemed more clearly destined to failure, than Clark's winter march against Vincennes. The danger of the winter journey was so great and the probability of an attack so small that Hamilton sent the larger part of his troops away. Clark saw the importance of the capture of Vincennes if he was to hold what he had won. Then, too, he had learned that Hamilton's plans for the spring were so far-reaching that if he should be allowed to mature them and to carry them out, there was every reason to believe that he would sweep the Illinois country clear of Americans, and probably drive them out of the country south of the Ohio as well. When Clark found out that Hamilton had but few men with him he resolved to act at once. To prevent Hamilton's movement toward the south in the spring, Clark decided to attack him at Vincennes.

The news of the contemplated expedition was received with joy at Kaskaskia. Many of the Creole youths, who had been drilled by Clark, enlisted for the expedition. He also took some of his Virginia veterans, altogether making a force of one hundred and seventy men, and started for Vincennes on February 4, 1779. On their journey of two hundred and fifty miles the troops were greatly impeded, and were caused much suffering by the freshets. Such a journey would not have been difficult for one man or for a small group of backwoodsmen, but it was necessary to keep this mixed company of Virginians and Frenchmen

obedient, good-natured, and enthusiastic over the object of the expedition. Clark succeeded in the main in doing this. Hunting expeditions were sent out and the game procured was served up as if it were a banquet. The convivial nature of the leader showed itself to the best advantage and won the hearts of the Frenchmen. Huge camp fires enlivened the evenings; songs, stories, and dancing marked the nightly halts of this curious military expedition. Their troubles became greater as they approached the Wabash, whose waters were so high that the littoral of the river and its branches was turned into a vast shallow lake, filled with floating ice, through which the men were compelled to wade or be ferried over on hastily built rafts. To the cold was added hunger, as the floods had driven all the game away, so that once the men were without food for two days. They were forced to camp on hillocks, without fire, for fear that they might attract the attention of the British. The Creoles were disheartened with the continued rain and cold, but Clark laughed at their discomforts and thought out new ways of keeping them amused. The worst part of the march was that endured just before reaching Vincennes, where it was necessary for the expedition to march four miles through a lake with no opportunity to rest on the way. This was a very difficult ford for the men in their weakened condition to accomplish, but the stronger helping the weaker, the shore was at last reached.

In the afternoon, happily without being discovered, Clark arrived at a spot within two miles of the village and in plain sight of it. There were several times as many British, French, and Indians in the village as Clark had men in his little army. A siege under such circumstances would have been of doubtful issue. Clark resolved upon a bold stroke which succeeded by its audacity. Again he depended, as he had done in his dealing with the Indians and Creoles earlier in the campaign, on the terror of his name and the fame of the American backwoodsmen as unconquerable fighters. He

sent a messenger to the French people of the village informing them of his arrival and giving them an opportunity to return to their allegiance to the Americans. Any who did not care to do this were ordered to go to the fort and join the British garrison, and it was further declared that if a Frenchman were found in the streets armed, he would be regarded as an enemy. In moving toward the town the Americans marched and countermarched so as to make their number appear as formidable as possible. They approached the fort, threw up earthworks and prepared to attack. The display of force intimidated the British and there was a meeting between the two commanders. This resulted in the surrender of the fort and its garrison of eighty men and officers. Hamilton, greatly hated by the Americans because of his complicity in many scalping raids against defenceless settlements, was sent a prisoner to Virginia. Here he was closely confined, but at the request of Washington was exchanged. Clark was thanked for the success of the expedition by the Virginian legislature and presented with a sword. Virginia gave him and his men one hundred and fifty thousand acres of land north of the Ohio near Louisville. Clark remained throughout his life a man of influence and popularity among the Creoles and Indians. Unfortunately his convivial habits which had at first made him popular, grew upon him with advancing age and he became a sot, but not until he had served his nation in many ways.

There still remained many difficulties after the capture of Vincennes before the war closed and the northwest became a part of the new nation; but Clark's victorious campaign won and held this section for the nation. His place in national history has never been fully recognized. The expedition was a brilliant dash into the enemy's country in the midst of the most appalling dangers. In a time when the colonies were in their struggle for existence this was an audacious attempt to gain new territory. Clark was the first expansionist, and it is probable that his work made the later expansion possible. But for that absurdly reckless

winter campaign against Vincennes, which no other man would have considered possible, Hamilton would have been able to carry out his plan for an aggressive movement in the spring with a large body of men against the Illinois country and against the more southern settlements. There was no American force west of the Alleghanies strong enough to successfully oppose Hamilton, as Clark well knew when he undertook the desperate expedition. There is a strong probability that with Hamilton in control of the Mississippi and its tributaries on the east, that at the treaty of peace the boundary of the United States would have been the Alleghanies instead of the Mississippi. When the treaty of peace was made the Americans rightly claimed all this region as theirs by conquest. That the nation to-day stretches from ocean to ocean instead of from the Atlantic to the Alleghanies, we owe to George Rogers Clark as much as to any man. The northwest remained from this time permanently in the hands of the Americans, though troubles constantly arose and the friction between the British and the Americans did not cease until, years after the Revolution, the British posts were finally surrendered.

The people of the west, as we have seen, defended themselves against the Indians and added to the territory of the nation. In addition to this, on one occasion at least, they rendered important aid to the east in winning a decisive victory. In 1780 the outlook for the Americans, especially in the South, was very dark. Charleston had fallen into British hands in May, and General Gates had been defeated at Camden through his unpardonably bad generalship. Georgia had already been conquered. These victories in the South had inspired the friends of the British with fresh courage and many new companies were raised. Cornwallis, with the main body of his troops, moved northward, Tarleton and Ferguson were left to complete the conquests in the South, and it seems very probable that they would have succeeded in doing this but for the aid rendered the Americans by the men from over the mountains. Their

own homes were continually threatened by Indian attacks, but when Governor Rutherford, of South Carolina, issued a requisition for two hundred men from the mountain counties, twice that number were raised. They had engagements with the British Tory forces and once with Ferguson himself. Their method of warfare was that which they had found so effective against their Indian foes. There was little discipline but much skill in using the natural advantages which the country afforded; and there was still more reckless bravery. After the defeat of Gates, these backwoods levies dissolved and the men returned to their homes. Ferguson pushed his course of conquest until he reached the foot of the mountains, then hearing that there were little settlements beyond, from which some of those who had opposed him had come, he sent word to them that if they would not return to their allegiance, he would march against them, burning their houses and destroying their settlements. They did not wait for him to attack them. Shelby and Sevier rallied the mountaineers, between them raising a body of five hundred men, some of whom had been in the earlier expeditions against the British, others going to meet them for the first time. They were joined on September 25th by Colonel William Campbell with four hundred men, and later, while on the way to attack the British, by Colonel Cleveland, of North Carolina, with four hundred men, and James Williams, of South Carolina, with about the same number. From time to time smaller bands of backwoodsmen were added to them, making the entire number about one thousand eight hundred. They were almost without discipline and there were fierce jealousies between the different companies and between their leaders. But they had a common object strong enough to keep them together until it was accomplished. They wanted to find and defeat Ferguson. The British leader with his company of trained Tories was not anxious to meet this force until he should receive reinforcements. He pushed forward from Gilbert Town to the Cowpens and

then to King's Mountain in his effort to obtain support from Cornwallis, but finding that this was impossible, prepared to fight at the latter place. King's Mountain was a low elevation well chosen for a defensive position and Ferguson felt sure that the mountaineers could not dislodge him, so here he awaited their attack.

Meanwhile the best of the American troops were selected to push on rapidly after Ferguson. Others came as fast as they could, hoping to share in the battle. The two forces were quite equally matched in numbers, there being about a thousand on each side. Ferguson had the advantage of a position which could not be scaled on any side without subjecting the enemy to a dropping fire from the hill. This was also selected because it would give his men an advantage if the opportunity came to put the Americans to rout by a bayonet charge, a method of fighting in which Ferguson had trained his men but which the mountaineers could not imitate as they had no bayonets. The plan of the American leader was to surround the hill and make retreat impossible. The men were instructed to watch their officers and be guided by them, but that every man must be also his own officer and if compelled to give way before a bayonet charge they were to return and begin fighting again as quickly as they could. The battle was fiercely fought and time after time Ferguson rallied his men, but they fell before the rapid and unerring rifle of the backwoodsmen. Finally Ferguson was killed and the whole force quickly surrendered; about eight hundred men were captured and fifteen hundred stand of arms. Not wishing to meet Cornwallis the Americans retreated into the mountains.

This victory, which would have been impossible but for the help of the western men, was one of the decisive battles of the war. It came at a time when the Americans were greatly in need of encouragement after the dispiriting repulses at Camden, Savannah, and Charleston. It gave courage to the Whigs in the South and caused a new uprising among them, which showed Cornwallis that his march into Virginia

would not be an easy matter. It forced the evacuation of North Carolina and prepared the way for the reorganization of the American forces. Later, when Indian troubles at home would allow, many of these over-mountain men, including Sevier and Shelby, did good service under Marion. It is to be regretted that their work under regular discipline or on long campaigns was never satisfactory. The life of the border had unfitted them for sustained submission to a superior officer. They were most successful when fighting in the Indian method, every man for his own hand.

The treaty of peace which closed the Revolution was the first great triumph of American diplomacy. It was won against the keenest diplomats in Europe by three men of that group of statesmen who have not since been equalled in American history. These three men were Franklin, Adams, and Jay. Their success was their own, for slight was the help they received from Congress; indeed, if they had followed the direction of Congress, the result of their negotiation would have been anything but successful. The most important question to be settled was that of independence. Another, only second to this in importance, was what should be the limits of the new nation? Should it be bounded on the west by the Alleghany mountains, or should it extend westward to the Mississippi? Should the work of the backwoodsmen in holding Kentucky and Tennessee and in conquering the northwest be given up? Congress gave these commissioners some strange instructions, which, if followed, would have lost to the nation the western conquests. There was, perhaps, a natural feeling that the United States owed much to France for the help which that nation had given in the war; but even that would not justify the utter subserviency which the instructions to the American negotiators would imply. The peace commissioners were instructed "to make the most candid and confidential communications on all subjects to the ministers of our generous ally, the King of France; to undertake nothing in the negotiations for peace or truce without their

knowledge or concurrence and to govern themselves by their advice and opinion." Such instructions speak highly for the confidence which the new republic had in her old ally, but fortunately the American representatives began business by violating their instructions. Franklin was brought reluctantly to the point where he saw that they could not trust his friend De Vergennes to the extent indicated by Congress. It was necessary for Franklin to understand, as Adams and Jay did at once, that France had not given the colonies her aid from disinterested motives, and that in the treaty of peace she would look out for her own interests rather than those of her allies. Two points the American commissioners insisted upon in the negotiations. One was that there should be an opportunity for expansion toward the west through the country that had been gained by Clark, and the other was the free navigation of the Mississippi. De Vergennes did not wish the new nation to have any such vast extent of territory, and he thought that the navigation of the Mississippi was something which should belong to Spain alone. He wished to establish a balance of power system in America, and to do this the new nation must be kept to the east of the mountains. Only in this way could future peace be secured. The Bourbon Family Compact influenced France to work for the interests of Spain in limiting the growth of the States. Spain, although an ally of the United States, was very jealous of her growth and with good reason feared that her aggressive spirit might cause trouble on the Mississippi.

De Vergennes held that the Americans ought to abide by the Quebec Act. By this all the territory north of Ohio River was a part of Canada and not of the colonies. He wished to make the section south of Ohio River between the Alleghanies and the Mississippi an Indian territory, which should be closed to settlement and preserved for the Indians under the joint control of the United States and Spain. The plans of Spain and her ally, France, to keep the United States a small and weak nation were foiled by

Great Britain. The British negotiators saw that the French and the Americans were suspicious of each other and a separate series of negotiations were begun between Great Britain and the United States. While Great Britain had been unwilling to surrender her colonies and thus divide her empire, her wise determination, after peace was declared, was to make the colonies independent of France or any other European power. This was accomplished by giving as a western boundary to the United States the limits of the old colonial charters,—the Mississippi. In the treaty the western limit was defined to be "from the northwest corner of the Lake of the Woods and then due west to the Mississippi; thence by a line to be drawn along the middle of said river Mississippi until it shall intersect the northernmost part of the 31st degree of north latitude." It was supposed that Mississippi River extended much farther north than it actually does, so that the British did not gain the advantage which they hoped from a clause allowing the British the free navigation of the river. Much was expected from this clause, for the British believed that the Mississippi rose at a point above the boundary set to the American possessions on the north and that it was navigable to a point far enough north in British possessions for goods to be shipped directly from Canada to the Gulf of Mexico, and thereby the northern province would be greatly profited. Great Britain abandoned her right of navigation when the Louisiana Purchase secured both banks to the United States. Taken altogether, the treaty was a great victory for the Americans and prepared the way for greater things in the future. Had the limits been those desired by France and Spain, the United States would have attained its present position only with great difficulty. The treaty was, however, satisfactory to none except the Americans. The British quickly saw that they had been over liberal in their treatment of the United States and had probably given them more than they really needed to give. The French and Spaniards felt that they had not been well treated and that the foundation was laid

for future trouble for Spain with her neighbor and rival in the great valley. The Canadian fur traders were by the treaty excluded from the United States and thus deprived of a large revenue.

From the outbreak of the war to the treaty of peace, there had been a continued growth of population in the western country. This was particularly noticeable in the settlements which were in close contact with the older communities; such settlements we find in western Pennsylvania on the branches of Ohio River. These were rather outposts of the old communities than distinctly new movements. There was a similar growth in the Kentucky and Tennessee settlements separated by long distances and mountain ranges from the older communities. In 1780, three thousand people entered Kentucky by floating down the Ohio. By 1783 there were schools and churches and prosperous farms; the population increased rapidly in the years 1783 and 1784, so that by the close of the latter year it had reached thirty thousand. It was no longer confined to any one section, but spread wherever good land could be secured. This was true, though not in so marked a degree, in Tennessee. In 1778 a settlement was begun in the lower valley of Cumberland River. In 1780 Colonel James Robertson, anxious to retire beyond the reach of the outrages of the British cavalry under Tarleton, led out a colony of forty families and settled near the present city of Nashville, then called Robertson's Station. This village became a centre around which numerous emigrants soon gathered. In 1783, with the establishment of peace, Tennessee received its share of the general tide of emigration. Numerous colonists entered this region from North Carolina and Georgia. The population of the Cumberland region was increased by the arrival of many Revolutionary soldiers, so that in 1784 the population of the district numbered not less than three thousand.

The Ohio settlements had much in common with the older communities. The settlements in Kentucky and

Tennessee were farther off from the home colony and had less in common with them. The relations of Watauga to North Carolina were not pleasant from the first, and the friction increased through the Revolutionary period. North Carolina did little to defend the county against Indians or Tories, but when the need arose, the Watauga people, under the leadership of Sevier, Shelby, and Robertson, showed themselves capable of self-defence. The Watauga settlers realized that they were gaining nothing from their dependence upon North Carolina and that the parent State was paying its own debts by giving away their lands. Restlessness bred during the Revolution was greatly increased when North Carolina ceded Watauga to the Union in such a manner that it was left practically without a government. This act led to the formation of the State of Franklin, which will be considered later.

The relations between Virginia and the settlements to the West were more cordial. There could be little material aid from Virginia because of the severe strain on her resources in the struggle in the East; but the Indian raids called forth the expedition of George Rogers Clark against the marauders, an expedition sent out under the auspices of the Virginia government. The Virginia government built a fort on Mississippi River, as a defence against the Indians, on what it regarded as the limits of its colony. Through the Revolution Virginia and Kentucky were on the best of terms. Jefferson, as governor of Virginia and as a private citizen, was always interested in Kentucky. In 1780 he secured a large gift of land for the work of education. When the proper time came for separation and the formation of Kentucky into a separate State, there was no suggestion of dislike for Virginia and the request was cordially received by that State.

CHAPTER III

LAND CESSIONS OF THE STATES

THE treaty of peace in 1783 defined the boundaries of the new nations but the distribution of the unappropriated portion of the national domain among several States formed one of the most serious questions with which the confederation had to deal. The section in controversy was that part of the country bounded on the west by the Mississippi and extending to the east as far as the western settlements of the States. Every State claimed all the land which had come to it by charter, except that the sea-to-sea claims were now limited on the west by Mississippi River. The liberality of the English kings in giving away what had cost them nothing and the carelessness with which the lines between the colonies were defined was now to cause much trouble. The important part of the original grant was, in all cases, on or near the sea coast. At the time the charters were granted, no one anticipated territorial conflicts in the far interior, for the time seemed remote when these trans-mountain districts would be needed for settlement. The Massachusetts grant was sixty miles wide along the coast and extended through to the Pacific. The Connecticut charter gave an equally liberal western extension. Both were subsequently modified by royal grants of land comprised within their limits.

After the conquest of New Amsterdam by the English, Charles II. bestowed this territory upon his brother, the

Duke of York. This cession was recognized by the two eastern States and they relinquished their claim to what is now eastern New York, but still asserted their ownership to the country to the west. Massachusetts considered as its territory the southern parts of what were later the States of Michigan and Wisconsin, while Connecticut held that northern Ohio, Indiana, and Illinois were a part of its territory, and also claimed the valley of Wyoming in Pennsylvania. This latter territory was, however, in 1782, adjudged to Pennsylvania.

The northern and southern boundaries of the lands claimed by Massachusetts and Connecticut were parallel lines but their nearest neighbor in the west, Virginia, was not content with any such narrow limits. The Virginian charter was drawn up in a way that was conveniently ambiguous for that State, though somewhat uncomfortable for her neighbors. The grant of 1609 gave to Virginia "all those lands, countries and territories situate, lying and being in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the seaboard to the northward 200 miles, and from the said Point or Cape Comfort all along the seashore to the southward 200 miles; and all that space and circuit of land lying on the seacoast of the precinct aforesaid, up into the land throughout, from sea to sea, west and northwest." This was a generous grant under any interpretation of the terms, but the extent of territory included in it would vary greatly according to the understanding of the words "west and northwest." If the southern line extended west and the northern line northwest, then the sides of the grant would form a trapezium, the eastern and western lines being on the Atlantic and the Pacific shores. But if the northern line extended directly west and the southern line northwest, the limits of the colony would be formed by a triangle, with one angle somewhere in the Alleghany Mountains. With this second interpretation, Virginia would have a territory of about the size of Pennsylvania, but if the first were allowed there would

John Jay. *From the painting in Independence Hall, Philadelphia.*

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belong to it practically all the northwest. Naturally Virginia took the large view, but the other States understood the charter to give the smaller territory. But this was not all the claim that Virginia had. George Rogers Clark had conquered the northwest under commission of the Virginian government and the money for the expedition had been paid by Virginia. Besides this, there were flourishing settlements from Virginia already established in the disputed territory. So there was the triple claim of charter right, conquest, and settlement, and we cannot wonder that Virginia held tenaciously to this splendid western empire.

North and South Carolina claimed from the Atlantic to the Pacific, and Georgia's claim was equally large but unsubstantial. This back country was in dispute between the Spaniards and the Indians, so that Oglethorpe's new and turbulent colony had little influence there. North Carolina's claim included the present State of Tennessee, and in addition to its charter claims it could point to the settlements already made by Carolinians on the land claimed by the State and to the part which these western mountaineers had taken in defending this land during the Revolution. At the time when the colonies organized a Federal government there were then these six States: Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, and Georgia, claiming a western extension bounded by the Mississippi. Of the remaining colonies, New York had a large, but ill-founded, claim as the heir of the Iroquois. The land affected by this claim was in the northwest and had been at one time under the nominal control of the Iroquois; New York acquired this by treaty. All the Indians in the region between Lake Erie and the Cumberland Mountains had been tributary to this powerful tribe, and so New York asserted control of their lands also. This claim was not so good as that of Virginia, and it came in conflict with the territorial pretensions of Virginia, Massachusetts, and Connecticut. There remained New Hampshire, Pennsylvania, New Jersey, Delaware, and Maryland, which by

the nature of their charters, had definite boundaries, and so could make no pretensions to western lands. But their limits were not so clearly defined as to prevent quarrels with their neighbors.

It was evident that with these conflicting claims, to pass upon the question of ownership and control would be one of the most difficult problems before the new nation. There were sharp jealousies between the small and large States, even as they existed, without considering the western land question, and, if Virginia and North Carolina were to have in addition to the land to which they had undisputed claim, these great undefined sections in the west, there seemed a threat of danger to States so limited in area as Delaware and New Jersey. The great States by combining could easily crush the smaller ones. They could offer such inducements in the way of large grants of fertile lands that they would not only attract all emigration into their own territory, but would even cause the small States to lose their population. Under our present government, where the smaller States are so carefully guarded, these fears seem to us groundless; but they were real dangers in the uncertain period following the war, when the Confederation was but a rope of sand and the several States too jealous of their own powers and privileges to grant sufficient power to a national government. This selfishness long threatened to prevent the ratification of the Constitution, and seemed to be an obstacle to any satisfactory unity. How this obstacle to union became one of the strongest bonds of union is a story which is as creditable to the good sense as to the generosity of those who took part in the settlement of the problem.

The representatives of the States without western lands argued that independence had been won by the action of all the colonies and that only through independence was there any value to the claims in the west. In other words, the few States which had the early sea-to-sea charters or which in some other way had gained land in the west had

claims whose sole value lay in the result of the work of the Federation as a whole. These argued that what all had suffered alike for, all should share in alike, and that even Virginia's claim through conquest of the northwest would be of little value except for the independence which was won by the united action of all the colonies. Another argument effectively used was the need of paying the officers of the Revolution. In 1776, Congress passed a resolution promising bounty lands of from one hundred to five hundred acres to the revolutionary officers according to their rank. At that time the nation had no land, and the only way it could get it was to buy it. If the colonial land claims were allowed, this resolution would mean that the nation as a whole must buy land from the various claimants and especially from Virginia. This would enrich one colony and impoverish another because the landless ones must help to pay for what they had in fact won with their own soldiers. Maryland voiced the opinion of the non-claimant States in October, 1776, in the resolution: "This State ought not to comply with the proposed terms of granting lands to the officers or soldiers, because there are no lands belonging solely and exclusively to this State. The purchase of lands might eventually involve this State in an expense exceeding its ability, and an engagement by this State to defray the expense of purchasing land according to its number of souls would be unjust and unequal."

It will be seen, therefore, that the question of the territorial rights of the various States was one of the most difficult with which the Continental Congress had to deal; and this was especially true of the territory north of Ohio River, where, as we have seen, three States asserted their rights,—Virginia by conquest, New York by its right as heir of the Iroquois, and Connecticut and Massachusetts because of the grants in the colonial charters. Undoubtedly Virginia had the best case through her conquest and occupation. A long dispute ensued in which Virginia, having larger claims than all the other States combined, pushed to excess its

views concerning individual proprietorship. Maryland, an influential State, but one with no western lands, represented the other view: that the western lands should be used for the common benefit of all the States. That this second view was finally successful was due more to Maryland than to any other State. As a non-claimant it feared Virginia and refused to ratify the Articles of Confederation until some satisfactory settlement of this question was made.

October 15, 1777, Maryland brought before Congress the idea which was finally to prevail for the control of the western lands. This was a month before the Articles of Confederation were to be proposed to the legislatures and the prerequisite question was: How shall the land claims be treated? It was moved that "The United States in Congress assembled, shall have the sole and exclusive right and power to ascertain and fix the western boundaries of such States as claim to the Mississippi or the South Sea, and lay out the land beyond the boundary so ascertained, into separate and independent States, from time to time, as the numbers and circumstances of the people may require." Maryland alone voted for this. The other small States were anxious to have the western lands sold to defray the expenses of the war, but in all cases reserved the sovereignty of the lands to the State claiming them. But Maryland persisted in its course and refused to sign the Articles of Confederation.

In 1780 the Senate and Assembly of New York passed an act "to facilitate the completion of the Articles of Confederation and perpetual union among the United States of America, authorizing her delegates to Congress to make either an unreserved or limited cession of her western lands as these delegates might think best." This showed that Maryland's persistent idea was gaining ground, and naturally New York was the first to give way because its title to the land of the northwest was the least substantial of the four claimants.

On September 6, 1780, a committee having under consideration the question arising out of the land claims urged upon

the States the necessity of surrendering part of their claims to preserve the stability of the general confederacy, and urged Maryland to subscribe to the Articles. In the next month, a further step toward the solution of the difficulty was taken when Congress resolved that the land which might be granted should be divided up into States with the same right of sovereignty as the original States, and that Congress would reimburse any particular State for its expense incurred since the commencement of the war in subduing or defending any part of the western territory. Virginia acted upon this recommendation of Congress, but made conditions which were displeasing; still it showed a willingness to come to some kind of agreement and to give up its lands. Now that the two great claimants, Virginia and New York, would evidently come to its point of view, Maryland entered the confederation.

In 1784, after Virginia had withdrawn the displeasing condition, it gave up its claims to the west. Massachusetts did the same in the next year. Connecticut's attitude toward the cession was more shrewd than generous, and it succeeded finally in making a good bargain for itself. In the debate in Congress this State showed itself ready in 1780 to cede its charter claims, but only on condition that it should retain the government of the territory. This would have greatly hindered the national government and the offer was declined. In 1786 the land was finally ceded with a reservation of a tract of about five thousand square miles for its own use. This was the section immediately west of the western line of Pennsylvania, now the eastern part of Ohio. This was known as New Connecticut or the Western Reserve. This reservation was strongly condemned by Congress, because Virginia had as good if not a better right to the land than Connecticut had, and this had already been given up by Virginia. In May, 1792, the Legislature of Connecticut granted to citizens of the State whose property had been burned or otherwise destroyed in the Revolution a half million acres on the western end

of the reserve. These were called the Fire Lands. In 1795 the remainder of this tract, with the exception of a few hundred acres previously disposed of, was sold to the Connecticut Land Company for $1,200,000. This sum was devoted to the support of educational work in the State, and is now known as the Connecticut School Fund. Jurisdiction over the entire Western Reserve was surrendered to the United States in 1800, thus completing the cession of the whole northwest territory to the Union.

The South Carolina cession was unimportant. Its western land claim consisted of a strip of territory stretching between Georgia and North Carolina to the Mississippi, but this was also claimed by Georgia. The dispute was before Congress for settlement when South Carolina made a cession of it, March 8, 1787.

In June, 1784, North Carolina ceded to the Confederacy its trans-Alleghany claim, and the Confederacy was given two years in which to accept it. Until Congress accepted it, the sovereignty was to remain in North Carolina. North Carolina was glad to rid itself of a turbulent and expensive colony, but the people of the district transferred objected to the mode of cession, claiming that no provision had been made for the government of the territory in the interval before the acceptance by Congress. This act of cession was repealed for the reason hereinafter explained. In 1790 North Carolina, now a State of the Union, again ceded to the United States its western lands, and succeeded in divesting itself of title to the region now embraced in the State of Tennessee.

Georgia did not cede its lands until 1802. This was not accomplished earlier because of a conflict between the national and State governments over the ownership of the western land. The land claimed by Georgia had been ceded to the United States by Great Britain in 1783. The State of Georgia had sold large tracts of the territory to land companies. The matter was finally settled by a joint commission representing Georgia and the United States, the

latter paying $6,200,000 for the territory, which was eighty-eight thousand five hundred and seventy-eight square miles in extent.

With the cession of the northwest territory the question of its government became an important one. A new problem arose here for which there was no precedent. Previous to this, the government of the western settlements had been administered by the colony that owned the land occupied by the settlers. These scattered settlements were now in one territory over which the States as individuals had no authority, but which belonged to the nation as a whole, and therefore was to be governed by the nation. Many schemes of government were suggested which are of interest because they prepared the way for the final plan embodied in the Ordinance of 1787. In several of these tentative plans was the idea that the government should divide the section north of the Ohio into districts which should be under the control of the Federal government until the districts should have a sufficient number of inhabitants to enable them profitably to govern themselves. One plan would divide the territory into seventeen States. This did not meet with general approval. On March 1, 1784, a committee was appointed, of which Jefferson was chairman, to take this matter into consideration, and to report a temporary government for the territory. This plan of 1784 was important because it was the basis of the ordinance which was adopted three years later. Jefferson's plan was to have force over all the territory between thirty-one degrees north and forty-five degrees north, thus including the lands to the south of the Ohio. The scope of the plan was later modified so as to include only the lands north of the Ohio. The size of these States was in accordance with a resolution of Congress, passed in 1780, by which each State should be not less than one hundred nor more than one hundred and fifty miles square. This was not strictly adhered to, as the States proposed were a little larger. They were to be as nearly as possible two degrees of latitude in width and

arranged in three tiers making ten new States. This division is now of little importance, but there is a curious illustration of the classical tastes of Jefferson and the men of his time in the names to be given to the proposed new States. They were Sylvania, Michigania, Cherronesus, Assenisipia, Metropotamia, Illinoia, Saratoga, Washington, Polypotamia, and Pelisipia. Sylvania, the northern State of the western tier, received its name because it was the land of vast forests; Cherronesus was the peninsula formed by Lakes Erie, Huron, and Michigan; Assenisipia was the Latinized form of the Indian name of the stream now known as Rock River; Metropotamia, the mother of rivers, was the State in which many rivers, the Muskingum, Wabash, Great and Little Miami, Illinois, and Sandusky had their sources; Illinoia was the section drained by Illinois River; Polypotamia, the land of many rivers was so named because within its boundary were parts of Wabash, Sewane, Illinois, and Ohio Rivers; Pelisipia was the Indian name of Ohio River. While we may see the reasons for these names, we may be thankful that they did not prevail. Ohio is better than Pelisipia, and Wisconsin to be preferred to Assenisipia.

Some of the features in the proposed ordinance were these: the settlers were to be given the right to establish a temporary government, to adopt the constitution and laws of any of the older States, and to erect townships or counties for legislative purposes. Free males of full age were to have the privileges of citizenship. This temporary government was to continue until the State reached a population of twenty thousand. Then it could have a delegate in Congress, and when a census showed that a State had a population equal to that of the smallest of the older States, it might be admitted to Congress on an equality with the older States. The new States were to remain forever a part of the Union. They, like the original States, were to bear a part of the debt of the Confederation, to be subject to the Articles of Confederation, to admit to citizenship no person

holding any hereditary title, and after 1800 there was to be no slavery in any new State. The important point in the ordinance was this prohibition of slavery after 1800, but when the ordinance was finally passed the proposed names of the States were stricken out as well as the boundaries assigned to them, and the slavery clause was also lost.

Jefferson must be credited with the effort of trying to abolish slavery, but his anti-slavery clause would have been of doubtful value, for the Ordinance of 1787 prohibited slavery at once instead of waiting sixteen years before abolishing it. The Ordinance of 1784 remained nominally in force for three years, that is, until its place was taken by the better Ordinance of 1787.

Jefferson's plan failed because it was too large. He not only wished to exclude slavery from the northwest, but to extend the prohibition southward to Florida. The ordinance proved to be practically useless. Settlements did not take place under it. The boundaries assigned by it were not satisfactory, because there were no natural lines between the States such as rivers or mountains. The scheme, as Washington pointed out, was too ambitious. He suggested that progressive settling was the best way and that plans should first be made for one State instead of ten. This thought of Washington later appears in the organization of the Northwest Territory.

In the period between 1784 and 1787, Congress was not idle. It had learned wisdom from the trouble caused by the conflicting personal land claims in the regions south of the Ohio, where the same land was often claimed by an Indian, a land speculator, and a settler. It therefore resolved to establish a land system in its newly acquired domains which might do away with this difficulty. In the southwest, each man had surveyed his own land, when and where and how he would; this practice led to great confusion. Congress wished to avoid this in future, by providing for a government survey. In 1785 an ordinance was reported, and, after discussion, passed, which provided for a plan of township

surveys by the government. The country was to be divided into ranges of townships six miles square, and the township divided into sections of one square mile, six hundred and forty acres each. It was planned to have one square mile set apart in each township for religious purposes, a plan which would have resulted in endless difficulty because of denominational differences. The idea of a reservation for ecclesiastical purposes was dropped. A wiser provision, and one that became part of the law, was that in each township there should be set apart one square mile for educational purposes. This plan of governmental surveys stood the test of time and proved of great advantage in the settlement of the northwest.

CHAPTER IV

THE POLITICAL SITUATION IN THE WEST BEFORE 1789

WHILE the western lands were being settled and the pioneers were taking possession in little groups or in larger ones, they were not without a government. Legally, they were a part of the home colony, but often a long distance intervened between the two; so that the control of one over the other could at the best be only nominal. No matter how willing the parent colony might be to give help, the distance was too great to make that help effective in any sudden emergency; and it often happened that the home colony had too many troubles of its own to care for the distant offshoot. Each community needed a strong and simple government, for several reasons. One reason was the nature of the settlers. While there were many, perhaps the majority, who joined in the westward movement with a sincere purpose to better their conditions, there were always others,—ne'er-do-wells who found the older settlements uncomfortable for them, men whose sense of right and wrong had not been very clearly developed, or had become obscured. Regulations were necessary also for land surveying and land holding and for the common defence of the settlers against the Indians. To the student of institutions the natural way in which these frontiersmen governed themselves is very interesting. They simply took the laws and customs with which they were familiar and adapted them to their own uses. There is a fine illustration of this self-government in the Watauga settlement, comprising the

little villages on Watauga River and in the neighboring valleys.

In 1769, by a treaty with the Indians, Virginia extended its western boundary to what is now in the main the eastern line of Kentucky. It was believed at the time that the Watauga region was by this extension within the bounds of Virginia; and so, when the settlers went there, they supposed that they were under the rule of the Virginia colony. But when the land was surveyed, it was found that Carter's Valley, Nollichucky, and Watauga were in North Carolina. The settlers were displeased at the discovery, because many of them had come there to escape the turbulence and misrule in North Carolina; and further, this colony did not care to exercise authority over this distant territory, because it would mean the obligation to protect these remote settlements from Indian attacks—a matter that might easily be one of great expense and difficulty and without any adequate return; this, too, at a time when it was occupied with affairs within colonial limits. Thus neglected by North Carolina, and beyond the jurisdiction of Virginia, these Watauga settlers were forced to govern themselves as if they were independent. Their condition was something like that of the Pilgrims on the *Mayflower*. They were where no one recognized colonial law, and their little communities were in a fair way to become refuges for the criminals and vagabonds who had committed offences in the colonies, and would on the frontier be in security because beyond the reach of justice. These desperadoes, whom Roosevelt calls "merely beasts of prey who plundered whites and Indians alike," were among the early arrivals in the colony, and here, as always, were the curse of frontier civilization.

In order to protect themselves, the three settlements of Carter's Valley, Nollichucky, and Watauga entered into association; and articles were drawn up to which they agreed, and thus was formed the first civil government by Anglo-Saxons beyond the mountains, and the first written

constitution adopted by American-born freemen. Unfortunately, these articles of association have been lost; but it is evident from the application of the laws that the simple rules applying to the circumstances in which they found themselves, were drawn from the laws of Virginia. For legislative purposes a committee of thirteen was elected, and these chose from their number five, who were to be a committee for executive and judicial business. They also had the necessary officers for enforcing and recording their decisions. These five men had control of the little confederacy in external and internal matters. They conducted their affairs as independently as if North Carolina did not exist, securing their lands by treaties with the Indians, establishing land claims, punishing evildoers, and attending to all other legal and judicial matters. They did this work well. In 1776 they petitioned the North Carolina Assembly to be allowed to come under its protection, in order "that they might have their share in the glorious cause of liberty." In 1778 the settlements were organized as Washington County, North Carolina, but the change did little to alter the form of government. That this experiment was successful for six years and then quietly changed its name without being compelled essentially to change its nature is due largely to the fact that the settlers were accustomed to Anglo-Saxon institutions and were, as a whole, law-abiding men. An equal number of French or Spaniards would quickly have founded a monarchy, with Sevier or Robertson at its head. These two men were trusted by the pioneers, and they easily became the leaders. Watauga only claimed to be a self-governing settlement, and at its own wish became a part of the State of North Carolina.

When the existence of the vast, fertile, and unoccupied country in the Mississippi valley became known, there arose a class of men who had visions of sudden wealth by the acquisition of these vast tracts and their sale to settlers. These plans failed, because, however rich and abounding in natural resources the land might be, there the settler was

always faced by the hard struggle for existence against Indian foes and new conditions of life. One of the greatest of these early land speculators was a North Carolina lawyer, Richard Henderson. He learned of the fertile regions on the banks of the lower Tennessee, and took measures to gain possession of land enough to make a good-sized State. In company with eight other men from North Carolina, he met the Cherokees at Sycamore Shoals, March 17, 1775, and in exchange for ten thousand pounds worth of merchandise he obtained the Indian title to the territory bounded by Kentucky and Cumberland Rivers, from their sources to their mouths. This was about half the present State of Kentucky and a part of Tennessee bounded on the south by Cumberland River. This tract, containing over seventeen million acres, was called Transylvania. This Indian treaty was deliberately made, twelve hundred warriors of the tribe being present to confirm it. There was some opposition, and warnings were made to Henderson that the land he bought was a dark and bloody ground. Before the transaction was finished, but when he saw that the bargain would be consummated, he sent Boone with a company of men to make a path over which settlers could go to the new land; this trail became the famous "Wilderness Road," from Cumberland Gap to the distant settlements. On their way the pathmakers were attacked by Indians, but on April 18th they began building a fort on the site of the future town of Boonesborough, and here Boone was soon joined by Henderson with thirty companions. At about the same time, the settlements were formed by Colonel James Harrod, which took the names of Harrodsburg, Boiling Springs, and St. Asaph's, the latter known also as Logan's Station. Of these four stations, Boonesborough took the lead from the start, and was the capital, as far as the settlements could be said to have one. It was here that Henderson opened the land office of the Transylvania Company, as his enterprise was styled, and the settlers obtained titles to their lands. The surveys were of the rudest kind, and many of the settlers, realizing

that the titles which they received from the Transylvania Company were of questionable validity, rested their claims on the "cabin rights." By these claims the settler acquired four hundred acres of land at $2.50 per hundred acres, and all that was necessary in order to perfect the claim was to build a cabin and raise a crop of corn. For abour $40 per hundred acres such a settler had a right to preëmpt one thousand acres adjoining his land. That settlement was going on rapidly is evident from the fact that Henderson issued entry certificates of surveys for five hundred and sixty thousand acres of land in the name of the colony of Transylvania.

Naturally the confused condition of the titles and the rude and imperfect surveys led to much litigation in later years. The land was sold on terms which would have been very liberal had there been any guarantee that the settlers could hold the land for which they paid. The company reserved for itself one-half of all the gold, silver, lead, copper, and sulphur mines that might be subsequently discovered. It opened stores and supplied the settlers with necessaries at reasonable prices. A movement was soon made for the organization and government of the colony of Transylvania. Henderson called a meeting of delegates from the four settlements, Boonesborough, Harrodsburg, Boiling Springs, and St. Asaph's, to meet at Boonesborough and these delegates, seventeen in all, met on May 23, 1775, on the open plain outside the fort. It was in many ways like the meeting of a legislature in one of the crown colonies, Henderson standing for the proprietors and his address being answered by the chairman of the convention. The laws passed by this body for the regulation of the colony were few and of a very general character. They were based on English law and were suggested by Henderson. Nine laws have come to us on the record. Their titles are:

1. An act to establish courts of judicature and regulating the practice therein.
2. An act regulating the militia.
3. An act for the punishment of crime.

4. An act to prevent profane swearing and Sabbath breaking.

5. An act for writs of attachment.

6. An act for ascertaining clerks and sheriffs fees.

7. An act to preserve the range (that is: the right of public pasture).

8. An act for preserving the breed of horses.

9. An act for preserving game.

The greater part of these laws are what might be expected in a primitive country, but the act against swearing and Sabbath breaking as one of the nine is rather unexpected. Its inclusion in the fundamental law may indicate the religious nature of these backwoodsmen, whose predominant faith was Presbyterian; or it may be due to the presence of a clergyman in the body of delegates. In a pioneer country where much of the living depends upon the common pasture for the cattle, the act designed to preserve the range was a wise one; and so were the game laws, because until the settlers were well established and had regular returns from their agricultural ventures they must depend largely upon game for food. The act for preserving the breed of horses shows that from the first the Kentuckians were interested in high-grade horses. But this first legislature was destined to be the last in the Transylvania colony. There was opposition to Henderson's dictatorial methods shown by his desire to govern Transylvania as a proprietary colony,—long after the days of proprietary colonies in America had passed; and the Scotch-Irish settlers, those restless over-mountain pioneers, would be the very last men over whom such a government could ever be successful. Of greater immediate importance was the cloud upon the title of the Transylvania Company to the land claimed by it. It came to light that the Cherokees had sold lands to which they had no clear title. These were the debatable lands lying between territories of the northern and southern Indians, and they had already been ceded by the Six Nations to the British government, and were also included in the

Virginia charter. The settlers quickly tired of the rule of Henderson and revolted against his authority, appealing to Virginia to be taken under that government, or if that colony thought best, they desired that their petition might be referred to the Continental Congress. The proprietors, claiming that they had rightly secured the land from the Indians, asked that Transylvania be admitted as one of the colonies, but Congress refused to admit their delegate. In addition to these adversities both the Virginia and North Carolina governments were opposed to the Transylvania scheme, and the purchase made by Henderson was declared null and void by the two States. Compensation was made to Henderson and the other members of the company by giving them two hundred thousand acres of land on the Ohio south of the mouth of Green River. Thus the proprietary government fell, but the title to the land was confirmed to the actual occupants, and the communities begun under the leadership of Henderson became permanent. These fortified settlements were, too, the beginnings of a future State. A heavy immigration began very soon, which by 1780 amounted annually to five thousand persons, and by 1784 the population of the Kentucky country probably amounted to thirty thousand souls.

Perhaps there is no more curious and instructive experiment in our early history than that of the short-lived State of Franklin, growing out of the irritation felt by the Watauga settlers at the terms of the act by which North Carolina, in 1784, had ceded to the United States her western lands. The men of Watauga County, or what is to-day the eastern part of the State of Tennessee, wished for separation from North Carolina, but they desired it in such a way that they would be at liberty to govern themselves; but under the cession of 1784 they felt that a period of two years of anarchy might be before them, and they were sure that in this period North Carolina would not exert itself to defend this section of its territory, a section which it was so soon to lose, against the unruly whites and hostile Indians. The only

way out of the difficulty seemed to be the formation of an independent government. This was resolved upon by three counties, Washington, Green, and Sullivan, and they proceeded to carry out their plan. It is interesting to see all through these movements toward self-government in the West, successful and abortive alike, how these Scotch-Irish Presbyterians and others of non-English blood had imbibed the spirit of Teutonic institutions. In this attempt at self-government they took the smaller unit, the village, or what nearly corresponded to it in their scattered communities, as the basis of administration rather than the larger division, the county. The first and strongest organization was military, with the able-bodied men of each village forming one company under a captain. In order to have a representative assembly, delegates were elected from each company in the villages in the three counties. Each community sent two representatives, making in all forty delegates, to a convention at Jonesborough, which met August 23, 1784, and here they prepared to form a new and independent State. When they organized they chose as president John Sevier, the man who, more than any other, was the maker of Tennessee. Prominent in the Watauga Association, in the State of Franklin, and in the early history of Tennessee, of which he was governor, he inspired in his following of mountaineers a love and admiration which has seldom been equalled. It is probable that this Jonesborough Convention adopted a resolution to separate from the State of North Carolina, though this was possibly done at a later date. Provision was made for calling a future convention which was to form a constitution.

But there was opposition to the separation until every peaceable method of adjustment had been tried, many fearing that a sudden revolutionary movement might bring on greater evils than they now experienced. North Carolina wishing to avoid difficulty repealed the act of cession, and constituted these counties a judicial district called Washington District. The militia of the district was made into

a brigade and Sevier was appointed brigadier-general. Sevier supposed this would satisfy the discontented ones, as the main cause of dissatisfaction was apparently removed; but the desire for independence was too strong and the neglect by the State of North Carolina had aroused such bitter feelings that the movement could not be stopped.

In November another convention met, but did little business beyond the drawing up of a constitution to be submitted to a convention chosen by the people, and deciding that in the meantime a government should be established as a temporary expedient, in which there should be a House of Commons and a Senate by which the governor should be elected. Elections were held and the legislature met in March, 1785, and, as was expected, chose Sevier for governor. They proceeded at once to set the machinery of State in motion. State officers, consisting of secretary of state, treasurer, surveyor-general, attorney-general, and brigadier-general of militia were appointed, and what gives us an unexpected view of the backwoodsmen, an act was passed for the promotion of learning in Washington County, under which an academy was started. There was a new arrangement of counties by which the number was increased. Taxes were laid for the support of the government, and the method of paying these taxes shows in an interesting way the financial condition of the new State. There was but little coin in circulation and the salaries had to be paid in the produce of the country. The prices of various articles were fixed by law so that they could pass as money; for example, beaver skins were worth six shillings apiece, country-made butter one shilling a pound, and good distilled rye whiskey two shillings and six pence per gallon. The governor's salary was £200. Correspondence began between Sevier and Governor Martin, of North Carolina, in which Sevier gave information of the step which had been taken, and announced the reasons why this had been necessary. He called attention especially to a breach of faith with the Indians on the part of North Carolina which had brought on

Indian massacres. The government had promised goods in payment for lands purchased of the Indians. These goods had not been delivered and as a result the Indians had committed many depredations. The governor admitted this, but gave as a reason that the cession of the western lands to the nation had delayed matters, but that the bargain would be completed in due time; that it was delayed now because of the lawlessness west of the mountains. Governor Martin stated that the murders committed by the Indians were due to the injuries which the settlers had inflicted upon them. He also announced that the western counties would have been given their independence in time and in a peaceable manner, but he showed that he regarded the secession as an insult and injury to North Carolina and one which the State would never pass over in silence. The entire correspondence is bitter and shows the excited state of feeling between the two parties.

An attempt was made to interest the Continental Congress in the new State. William Coke was sent as its representative, to lay matters before that body. He recited the grievances under which the settlers labored, and showed that the territory was now under Federal control. As it had been ceded by North Carolina, the cession should be treated as an accomplished fact. This presentation had apparently no effect on the national government. The constitutional convention met at Greeneville in November, 1785, and various plans for the future were discussed. One presented by Samuel Houston is of little importance, save as a curiosity. Frankland was suggested as the name of the new State. Every office holder must be a taxpayer and a Christian, but he could not be a lawyer, minister, or doctor. The proposed plan of legislation was an elaborate system of checks and balances, which showed that the people could not trust those who were to make their laws. It was so complicated that any legislation would have been slow and difficult. This constitution was voted down, and the convention adopted the proposition of Sevier, by which the

form of the Constitution of North Carolina, with some few changes, was to be adopted for the new State. The name was changed from Frankland to Franklin, as a testimony of the very high regard which these people had for the many important and faithful services which Franklin had rendered his country. The State was now fully organized, but the organization did not work smoothly. There were two factions—one, led by Sevier, in favor of independence, and the other by Tipton, who became leader of the party desiring to return to allegiance to North Carolina. There came a conflict of authority between the two parties and a strong reaction against independence, especially after the government of North Carolina passed an act of oblivion and invited the rebels to return to their allegiance. All those who for any reason were dissatisfied with the new government joined the Tipton party against Sevier.

Elections were held and representatives appointed to the North Carolina legislature. In this movement John Tipton was the leader. From this time on through the lives of these two men, Tipton and Sevier, they were the leaders of rival factions. The authority of North Carolina was nominally reëstablished in Tennessee; but the Franklin government did not recognize this control, and Tipton, who had been elected senator in Washington County from North Carolina, exercised his authority in defiance of Sevier and his followers, who strove to uphold the authority of the new State. Brawls were frequent, and there was much bloodshed. The courts of the rival governments were held within ten miles of each other, and the court records of one party were often stolen by the other. In this way many valuable deeds and papers were lost. When a company of Tipton men met some of the Sevier party, there was sure to be a fight. On one occasion, the two leaders met in the streets of Jonesborough, and relieved their pent-up feelings by a hand-to-hand conflict.

No one knew which laws would be held legal, whether a marriage or a transfer of land under the laws of North

Carolina was binding or not under the laws of Franklin. Tax-paying became a thing of the past, because there seemed no legal authority for the collection of taxes; the frontiersman did not care to pay to both parties, and so he paid to neither. The condition approached nearer and nearer to a state of anarchy, and the quiet, law-abiding citizen, as a rule, turned to North Carolina; and yet, the differences between the two were not so great as the bitterness of feeling would lead one to conclude. North Carolina recognized the fact that Franklin should at some time become a separate State, but it insisted that the separation should take place at a proper time and in a proper way. Sevier, anxious to bring about a peaceable recognition of the separation, sent commissioners to the legislature of North Carolina to present the matter. Coke presented the cause of Franklin in an eloquent, able way. He rehearsed the benefits which had come to North Carolina in the Revolution from this barrier colony, and the inconsistent way in which the Watauga people had been treated. He showed how they had conquered the wilderness unaided, and had earned the right to take their place as a State on an equality with the other States. North Carolina was too far away to exercise jurisdiction over Franklin. The only right and wise course was to allow the freedom which Franklin desired. But his eloquence did not produce the wished-for result. Some concessions were allowed, and another act of oblivion was passed.

These efforts toward conciliation were offset by a law depriving of their official positions all those who had accepted appointments under the State of Franklin. This would retire to private life many of the men who, like Sevier, had been prominent in the life of the section since the beginning of the Watauga settlement. Efforts were made by Franklin to enlist Georgia in the enterprise, and this was to some extent successful through a common interest in gaining the lands belonging to the Indians. But the forming of an independent State without the consent of the parent State was an alarming innovation in American politics. There was not

sufficient reason for its revolutionary attitude, and gradually the project fell of its own weight. The Franklin legislature met for the last time in 1787. The election had been carried on with such confusion, owing to the conflict of authority, that civil war often seemed imminent. It became evident that Sevier and his party must either give up the State, or fight. By March, 1788, the last vestige of authority had vanished, and North Carolina took undisputed possession.

The end of the State came in a disgraceful fight between Sevier and Tipton. With the fall of the State, Sevier's position was a critical one. Now that he had no longer any legal authority, there would be an opportunity for his enemies to turn against him with a better chance of success, and he well knew that Tipton and the North Carolina party would improve the opportunity. On one occasion, the sheriff issued a writ against his estate, and his slaves were carried into Tipton's house for safe keeping. Sevier's friends to the number of one hundred and fifty rallied, and followed their leader in laying siege to Tipton's buildings. In the contest between the two parties several men were killed, and the attack continued until the county militia came to Tipton's aid. The Sevier forces were scattered, but their leader still refused to yield, even when ordered to do so by the State. On the distant frontier the settlers were devoted to this man, who showed himself better fitted for Indian fighting than for governing a settled community. He fled to his friends and entered upon the leadership of an Indian war.

This Indian war was carried on with the usual pluck and dash which had earned for Sevier his reputation as the most successful leader on the frontier. But it was marked by deeds of violence, unreproved by Sevier, which caused some of the frontiersmen to object. Acts of cruelty and treachery, if not done by his order, were committed by his men, and were unpunished by the leader. Such acts did not diminish his popularity with the rougher class of pioneers on the

border, but they did give an additional reason for his arrest by the North Carolina government. When he returned to civilization, his arrest was ordered on the ground of high treason and violation of Indian treaties. He entered Jonesborough, where Tipton happened to be, and the latter, taking a small company of men with him, placed Sevier under arrest. He was taken to Morganton, North Carolina, for trial. During the trial an incident occurred which gives a fine illustration of border conditions. Sevier's adherents, to the number of a dozen, came to Morganton. When the court broke up for the evening, these friends managed to get near him with a spare horse, which he mounted and rode away. They went toward the mountains and were soon out of danger. This ended the trial for treason, as no attempt was made to recapture him. When Tennessee became a State, Sevier was elected the first governor.

There is much in this abortive attempt to establish an independent State which excites our sympathy. There were irritations and provocations from North Carolina which the settlers found hard to bear. Sevier, as the leader of a struggle into which he was unwillingly drawn, exhibits many heroic qualities. The Tennessee men considered their relation to North Carolina much like that of the colonies to Great Britain: both were fighting for freedom from oppression. But it was very fortunate that the State failed. There were other western communities, a little later than this, which would have gladly followed the example of Franklin if this first effort had been successful. The bond between the States in the critical period before the adoption of a constitution was a very weak one, and a still weaker bond held the western country to the East. Independent States, and the right of sections of a State to declare themselves independent of the rest of the State, might have produced such a condition as that which exists in Central America to-day. But a greater danger would have come from Spain's trying at this time and later to bring this overmountain section into combination with the Spanish power

at New Orleans. The Mississippi was the natural outlet for the surplus products of this region. The mountains and the long distance from the Atlantic made intercourse with the East a matter of great difficulty. The failure of Franklin made it easier for the United States to defeat the separatist movement, which was already becoming strong.

CHAPTER V

THE ORDINANCE OF 1787

A VERY important step toward the settling of the West was taken in the passage of the Ordinance which instituted the rectangular system of surveys to which we have already referred. This was adopted only after a long discussion in Congress. The first ordinance "for ascertaining the mode of disposing of the western lands" had required townships to be ten miles square, each mile to be six thousand and eighty-six feet in length, so that the township would consist of one hundred lots of six hundred and fifty acres each. On April 26, 1785, it was proposed that each township be seven miles square with forty-nine sections of six hundred and forty acres in each section; of these, one section, number sixteen, was to be set apart for educational purposes, and section number twenty-nine for the support of religion, but this latter provision was stricken out. A third ordinance was passed on May 20, 1785, and the system set forth in it is that now in force. The ordinance provided that the surveying should be done under government control. By this new system the public lands in the western country were to be divided into townships six miles square. These squares were formed by lines running north and south with others crossing them at right angles. The starting point for the first east and west and north and south lines was on Ohio River directly north of the west end of the line forming the southern boundary of Pennsylvania. The largest division was the township, which was six miles

square, and was divided into thirty-six sections of six hundred and forty acres each. In each township there were, therefore, twenty-three thousand and forty acres, and these lines were run without regard to the quality or even quantity of available land in the township, so that one might be largely taken up with land that was useless or even be covered with water. For this reason when the land companies made large purchases, in some cases running up into millions of acres, generous deductions from the price per acre were made because of the unavailable lands included in the survey. The townships were designated by numbers running north and south, the ranges by numbers running east and west. In this way they could be easily and accurately designated. The "tenth township of the seventeenth range" was a definite and easily found spot.

If the westward movement was to be a permanent success, a government was necessary which would make life and property secure in the new possessions. The Transylvania and Franklin experiments made it clear that ownership by a distant colony was not enough; that the difficulties of communication and the lack of common interests made such a rule undesirable. North of the Ohio the problem was even more difficult because no State could control this vast unsettled territory, which, by the cession of the land claims of the various States, had become the property of the entire nation. It must, therefore, be ruled by the nation until it reached the point where self-government would be advisable.

The Ordinance of 1784 had remained practically a dead letter. The Northwest still continued an organized wilderness with here and there scattered Indian tribes and, in the western part of the territory, a few French settlers who continued to live under their own laws. There were also in the river valleys a few settlements of squatters who lived under scanty and ineffective laws of their own making. They occupied the lands without any title to them. From time to time, in Congress, the question of the settlement

and government of the public lands came up for discussion, but no definite conclusions were reached. Matters of apparently greater importance took up the time of the legislators. Greater interest was, however, taken in the problem after the beginning of 1787. On April 26th of that year a committee, previously appointed, consisting of Johnson, of Connecticut, Pinckney, of South Carolina, Smith, of New York, Dane of Massachusetts, and Henry, of Maryland, reported "an ordinance for the government of the Western Territory." It was debated the next day but it did not come up for the second reading until May 9th. The third reading was to take place on the following day but it was postponed. This ordinance as it stood on the 10th of May was in many important respects different indeed from the one finally reported. The points which make the later ordinance famous are omitted in its predecessor. The general form of government is the same in both. The manner of the appointment of officials is also the same, but there is nothing in the earlier instrument about the rights of conscience, civil and religious liberty and the division of the Northwest Territory into States. It did not contain the article declaring the ordinance a compact between the original States and the people of the Territory, and unalterable, except by common consent. Congress, through inability to assemble a quorum, did no business till July 5th. Four days later, the ordinance was recommitted to a committee made up of Carrington, of Virginia, Dane, of Massachusetts, Lee, of Virginia, Kean, of South Carolina, and Smith, of New York. After two days, Mr. Carrington reported the "Ordinance for the Government of the Territory of the United States Northwest of the River Ohio." It was read a second time on the 12th of July and amended by the addition of the article prohibiting slavery, and on the 13th it was passed by the unanimous vote of all the States represented, the only individual voting against it being Yates, of New York. Why he opposed it has never been clearly explained.

Some interesting questions arise at once when we compare the ordinance which finally passed with that which preceded it. Very important changes occurred in the ordinance before the final passage. What was the occasion of these changes? Why should a Southern committee, or at least a committee the majority of whose members were from the South, add a provision which practically shut out Southern immigration into the new territory by the prohibition of slavery? The best explanation is the influence of the New England parson, Manasseh Cutler. He was agent for the Ohio Company, composed of men who wished to settle in this new land and open up the country to settlers from New England. The plan of government as given in the ordinance when referred to the special committee, early in July, contained many valuable features, but there were omissions that became important when the proposed ordinance was viewed from the New England standpoint. Cutler was in conference with the committee and suggested amendments, though there are no records to show just what these amendments were. Probably those relating to religion and education came from him. The slavery clause presented by a committee containing a majority of Southern men and passed without a dissenting voice from the South is more puzzling; but this anti-slavery clause was consented to only after the application of the ordinance was confined to the lands north of the Ohio, and it was fair to assume that the South would not lose greatly in political power because of the prohibition of slavery in the Northwest Territory, since there could be only five States made of the territory at most, and it was possible that the lands south of the Ohio might be made into as many or more. It was also safe to assume that if slavery was prohibited in the lands north of the river it might be allowed in those to the south.

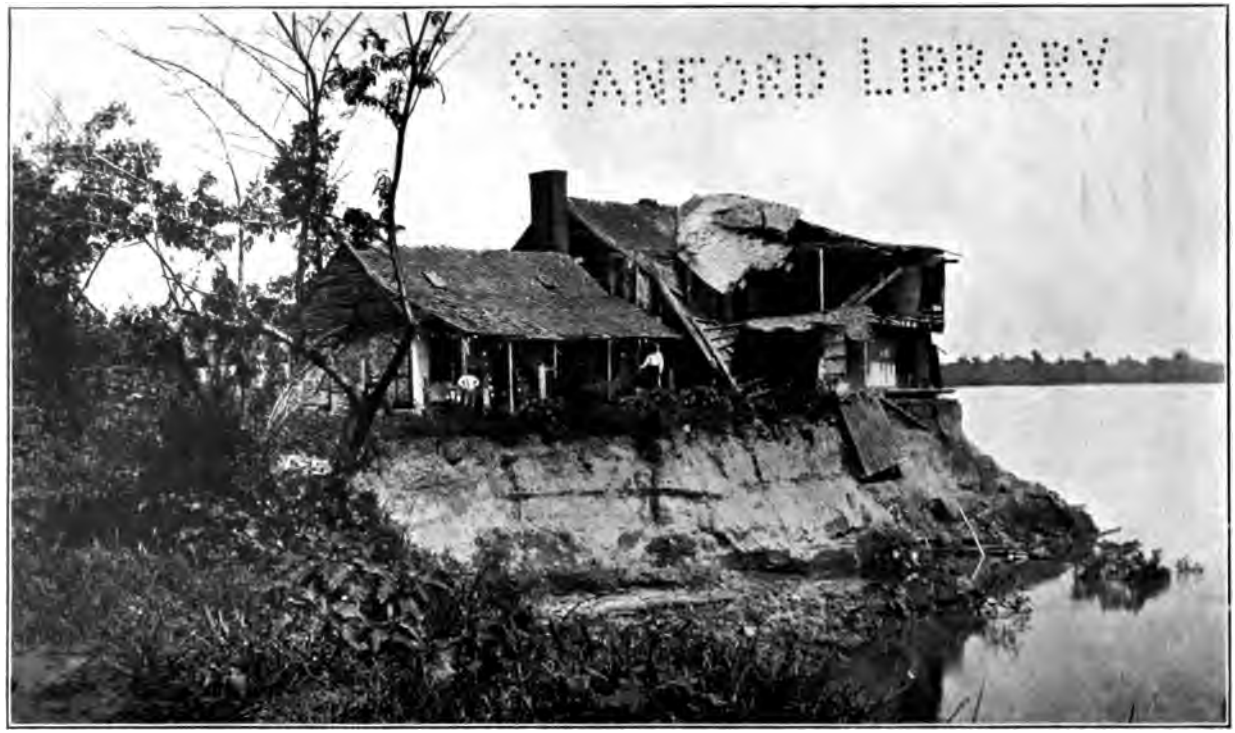
The following are the main provisions of the Ordinance of 1787: The first clause provided that for the purpose of temporary government the territory northwest of Ohio

River was to be treated as one district with the understanding that it might be divided into two districts when Congress considered such action advisable. Then follows a regulation for the distribution of the estates of the resident or non-resident property holders who die without making a will. They were to be divided amongst the legal heirs in equal parts. The process of bequeathing property by will was made very simple. Anyone of full age might make a will, which became of legal force when attested by three witnesses. Real estate was made conveyable by simple forms and the attestation of only two witnesses was required. The French and Canadian inhabitants were allowed to keep the old laws relating to the descent and conveyance of property. The governor of the Territory was to be appointed by Congress for a term of three years unless his commission was revoked before that time. While governor he was to live in the district and own a thousand acres of land. Congress was to appoint a secretary who was to hold office for four years. He must reside in the district while holding this office and own five hundred acres of land. Congress was also to appoint a court, consisting of three judges, with the same conditions as to residence and landholding as those regarding the secretary. They were to continue in office during good behavior. The governor and the judges were to adopt such criminal and civil laws of the original States as they considered necessary. These laws, unless disapproved by Congress, were to be binding until a General Assembly was organized. The governor was to be commander-in-chief of the militia and had the power to commission the militia officers below the grade of general. Before the General Assembly was organized the governor was authorized to appoint officers in each county or township for the preservation of peace and order, and it was his duty to lay out the districts in which the Indian titles were extinguished into temporary counties and townships.

When there were five thousand free male inhabitants of full age in the district, they were empowered to elect

representatives from their counties or townships to represent them in a General Assembly, in the proportion of one representative for every five hundred free male inhabitants, until the number of representatives should amount to twenty-five, after which the number and proportion were to be regulated by the legislature itself. To be eligible to election as a representative the candidate must have been a citizen of one of the United States for three years and a resident in the Northwest Territory, or a resident of the Territory for three years, and in either case he must be a landholder. The term of service for representatives was two years. The General Assembly consisted of the governor, Legislative Council, and House of Representatives. The Legislative Council was made up of five members who were to be chosen by Congress from ten persons resident in the district and holding five hundred acres of land, nominated by the Territorial House of Representatives for this purpose. Their term of service was five years, unless sooner removed by Congress. The General Assembly had authority to make laws not repugnant to the principles of the ordinance. In order to become a law, a bill must be passed by a majority in the House and in the Council, then referred to the governor for his assent, and his assent was in every case necessary. All officers and others that might be appointed by Congress were required to take an oath of fidelity and of office. The Council and the House, acting together, had authority to elect a delegate to Congress who had the right of debating but not of voting in that body. All these provisions were in the nature of a preamble to the really important part of the ordinance. Then follow six articles, introduced by the following prefatory clause:

"And, for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said Territory: to provide also for the



Old French mansion at Kaskaskia, Illinois, showing encroachments of the Mississippi. *From a photograph in possession of the Wisconsin Historical Society.*

establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest: It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original States and the people and States in the said territory and forever remain unalterable unless by common consent."

Article I. guaranteed freedom of worship and freedom of religious sentiments to every person in the Territory conducting himself in a peaceable and orderly manner.

Article II. contained many provisions which are the common heritage of the English speaking people from the time of Magna Charta; such as the benefits of the writ of habeas corpus and trial by jury; that no cruel or unusual punishment might be inflicted; that no man might be deprived of his liberty or property, but by the judgment of his peers or by the law of the land; no law might be made that interfered with private contracts or engagements, and provision was made for proportionate representation by the people in the legislature, and that judicial proceedings were to be according to the course of common law.

Article III. provided that schools and the means of education were to be encouraged, because religion, morality, and knowledge were considered necessary to good government and the happiness of mankind. It was provided that the Indians were to be fairly treated, and that their property might never be taken from them without their consent; that no war might be carried on against them without the authorization of Congress.

Article IV. declared that the Territory was to remain forever a part of the Confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as might be constitutionally made. The people of the Territory were to pay their share of the public debt and of the expenses of the government. The

New England emigrants, and, as we have already pointed out, the clauses on slavery, religion and education are probably due to his suggestion. It is possible that he had more to do than any one else with the framing of the Ordinance.

The most important section in this instrument is the one relating to slavery. Jefferson was the pioneer in this thought of prohibiting slavery in the new territory. His proposition in the plan of 1784 was "That after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in the punishment of crime whereof the party shall have been convicted to have been personally guilty." This was not a part of the Ordinance as finally passed, but it is valuable as a suggestion, especially valuable as coming from a representative of a slaveholding State. It failed to pass by one vote, much to the regret of Jefferson. The subject of slavery was not brought up again until the next year when Colonel Pickering wrote to Rufus King, member of Congress from Massachusetts, on the subject of western lands, especially regarding slavery. He regretted the absence of the slavery clause contained in the Ordinance of 1784, but adds: "It was a mistake to propose its toleration till 1800. Its admission for a day or an hour ought to have been forbidden. It will be infinitely easier to prevent the evil at first, than to eradicate it or check it at any future time." This was a move in the direction of the famous section of the Ordinance of 1787, and King put the thought in the letter of his friend into the following motion which was brought before Congress March 16, 1785:

"That there shall be neither slavery nor involuntary servitude in any of the States described in the resolve of Congress of April 23, 1784, otherwise than in punishment of crime whereof the party shall have been personally guilty, and that this regulation shall be an article of compact, and remain a fundamental principle of the Constitutions between the thirteen original States and each of the States described in said resolve of April 23, 1784."

This resolution, which differs from Mr. Jefferson's in that it did away with the extension of time till 1800, was referred to a committee. On April 6, 1785, Mr. King, chairman of the committee, reported, recommending the restoration of Jefferson's limit of 1800 for the continuance of slavery in the territory, and adding a new recommendation, which became the source of the later fugitive slave law. This clause read as follows:

"Provided always that upon the escape of any person into any of the States described in the said resolve of Congress of the 23rd day of April, 1784, from whom labor or service is lawfully claimed in any one of the thirteen original States, such fugitive may be lawfully reclaimed and carried back to the person claiming his labor or service as aforesaid, this resolve notwithstanding."

It is impossible to determine the authorship of the fugitive slave clause, but it was apparently satisfactory to all. Possibly it was adopted as a compromise measure. This motion, with a slight modification as to time, became a part of the Ordinance of 1787, and seemed agreeable to North and South alike. The meaning of the slave provision was, however, in doubt from its inception, for the terms of the clause were by no means as clear as its framers thought they were.

The slavery clause is important because of its bearing upon the later progress of the nation. The results of the Civil War might have been quite different if slavery had been strongly entrenched in the great North Central States, or there might have been in Indiana and Illinois such a struggle for the control of the States as disgraced Kansas. The men who prohibited slavery in the Northwest were building wiser than they knew.

Taking the Ordinance of 1787 as a whole, we may rank it with the Constitution and the Louisiana Purchase in its influence on the future. The Ordinance is a plain and simple document made up of the commonplaces of good government,—commonplace because the framers of the Ordinance made them so. They saw with remarkable

clearness what ought to be fundamental in a government of free men, and there has been no need of essential changes in their plans even to the present day. No better way has been found for governing dependent territory than that which was discovered by these men.

The confederation was face to face with a new problem. Here was a great extent of country held absolutely by the United States to be governed as they should decide. They had before them the experience of other countries in governing subject territory but they did not follow these examples. They would naturally turn to England as the people with institutions most like their own for guidance in this critical period. But their own experience of England's colonial policy would not give them much help. It had been essentially selfish. The ruling thought suggested by Lord Hillsborough's paper to the Board of Trade had been to use the colonial possessions as a means of enriching the home country, hampering their growth so as to keep them dependent on England. Spain and Portugal, the other colonizing nations, had been even more selfish, so that no help could be found in their experience, except that they gave an example of dangers to be avoided. We must credit these men of the Confederation with a far look into the future. The nation did not care to have dependencies, so as soon as the district was able to take upon itself the duties of self-government it was to be allowed to do so. As soon as they were able they were to be allowed to enter into statehood on an equality with the original States. There were sound reasons for this liberal policy. It was quite evident that the new territory must be peopled by eastern men who were accustomed to liberty. They would not go into new sections unless they were assured of as good government as they enjoyed at home.

These men of the east knew from experience what kind of government they and their neighbors desired. They were educated men, and they wished their children to have a better chance to obtain an education than they had had

themselves. They did not care for a State church, but, realizing that no State would be successful unless it was governed and peopled by God-fearing men, they provided for a freedom of education and religion which did credit to their liberality of thought.

The Ordinance was influential in determining what the character of the population of the Northwest should be, and it was planned from the first that this should be the case. The government was of such a nature that it would appeal to the people of the north, especially of the northeast. After the ordinance was passed, prospective emigrants from this section knew that they were to live under a government similar to that to which they had been accustomed in Massachusetts or Connecticut, and provided with such safeguards that it would remain essentially a New England government, without the introduction of features which would be obnoxious to them. From the first they could feel that the Northwest Territory was a part of the Union. These first settlers, as their successors have been, were always strongly loyal. The Separatist movement had little influence upon them, although their natural outlet was the Mississippi. They did not flee from the home State because of disorder and mismanagement, as the founders of some of the western settlements had done. Their interests remained identical with those of their old neighbors, who remained in the east. The slavery regulation determined that the section should be peopled from the north rather than from the south. The southerner would not go where he could not employ slave labor, so that the southern emigration was toward the west along the same parallel of latitude, into territory where slavery was admitted.

The best evidence of the wisdom of the Ordinance was the successful way in which it worked. It was not always found to be perfectly clear, and the provisions—notably that of the division into States—were sometimes disregarded, but in time this Territory emerged into States and others were modelled after them.

CHAPTER VI

THE WORK OF THE GREAT LAND COMPANIES

In the colonies there was much of the land hunger which has remained a characteristic feature of American life. The settler in the wilderness laid claim to as much land as he could. If he had no immediate use for it, he could hold it for a future increase in value, confident that there would be such an increase. Land speculation on a large scale held out promise of great wealth, when vast tracts could be bought from the colonies or the Indians for a few cents an acre. A large number of land companies were formed before the Revolution and many more after the rush of settlers to the west commenced, in the decade following the close of the Revolution. Some of the promoters of these companies used unscrupulous methods. False representations of the land to be sold were made and because of them much money was lost by the confiding public. Yet, almost without exception, the originators themselves lost money. They paid very little for the land, it is true, but it was at the best worth very little, on account of its distance from civilization and the great amount of unoccupied land available to all settlers. Often, too, after the purchase price had been paid it was found that the transfer was not legal, either because the Indian title had not been extinguished or because rival colonial land claims made it impossible for anyone to sell the land with a clear title to it.

The treaty of Fort Stanwix gave an impulse to land speculation and to the formation of various land companies

for taking up and settling the territory which it covered. None of these companies were successful, because of the attitude of the British government, which was consistently unfriendly to inland colonies. One of them, however, came very near success. If success had actually been reached there would have been fourteen instead of thirteen colonies at the outbreak of the Revolution. In 1766, Sir William Johnson proposed to Dr. Franklin, then in London, a plan for a new colony and asked his aid in carrying it out. Franklin approved the project, but a change in the ministry made it impossible to accomplish the scheme. A few years later this company was organized with Sir Thomas Walpole, a London banker of prominence, at its head, and in 1772 the company succeeded in obtaining a large tract of land west of the Alleghanies as the place for a colony. The promoter gave the tract the name of Vandalia, but it is generally called, from the name of the leading man in the company, the Walpole Grant. The stock of the company was divided into seventy-two shares. The promoters desired to buy from the Indians the land west of the Alleghanies, south of Ohio River and north of North Carolina—a tract including about two million four hundred thousand acres. For a form of government it was proposed to take the charter of the Massachusetts Bay Colony. The plan was strenuously opposed by Lord Hillsborough, who wrote a report to the Board of Trade. Hillsborough objected to the project because the lands asked for, had, in part, been given to the Indians by treaty. He especially emphasized the fact that such territorial acquisition would be contrary to the policy of the Board of Trade. This policy, as we have seen, was to keep the settlers near to the eastern seaboard, so that they would be within easy control of the Board of Trade and beneficial to the commerce of England. To an allegation that the distance of the proposed colony from the seaboard was so great that supplies could not be transported profitably to the coast, Franklin answered that the actual cost of transportation per hundredweight would be less than

between certain parts of England. Lord Hillsborough had said that if the settlers were crowded in the north, they might occupy some of the unoccupied lands in eastern or western Florida, at that time in British possession. Franklin made the objection that this could not be done because of the pestilential nature of the regions in the south. This was incorrect, as subsequent experience has shown, but he rightly understood and explained the tendency of a people to migrate along the same, or nearly the same parallel of latitude, and asserted that Vandalia, not Florida, was the natural place for the overflow of the population of the Middle States. He called attention to the fact that already there were settlements in this section, and that they needed some government other than the very loose connection with the nearest colony on the seaboard. They needed a strong government, such as they could have only when formed into a separate colony. Franklin's reply was so convincing that when the matter was voted upon in 1772, the petition of the Walpole Company was granted, but before the project could be carried out the impending Revolution made it impossible.

But settlers had not waited for the consummation of the Walpole plan. While there were great difficulties because of the mountains in the south, the advance westward in Pennsylvania by the branches of the Ohio was a very easy one, and settlements were begun on the Monongahela by 1770; and when Franklin presented his statement to the Board of Trade he was able to state that already five thousand families were in the West on Ohio River, and besides these there were several thousand families settled on the western lands claimed by Pennsylvania.

Another indication of the westward growth of population is given in the petition of the people between the mountains and Scioto River to be formed into a separate State. They asked Congress in 1776 that they might have an independent government free from the uncertainties caused by rival States claiming jurisdiction over them. They also wished

to be free from the control of various land companies. In this request they claimed that this new State which, if their limits were allowed, would include lands claimed by Virginia and Pennsylvania and a part of Kentucky, had already a population of twenty-five thousand. This was probably an exaggeration, but taken with Franklin's estimate shows a very rapid growth of population in the Ohio valley.

Another of the pre-revolutionary companies was the Susquehanna Company, of Connecticut. By 1750 the colony of Connecticut was crowded with inhabitants and the people turned toward the western lands for relief, especially to that part of the West under the Connecticut charter. Returning travellers brought enthusiastic reports of the fertility of the eastern end of the Susquehanna valley, which at that time was supposed to be a part of the colony of Connecticut. Under the American news from Connecticut the following note appeared in the *London Magazine* for July 27, 1753:

"Several hundred people of this Colony have agreed to purchase a large tract of land of the Six Nations of Indians on the Susquehanna River, about three hundred leagues to the westward, lying within the bounds of their charter to settle upon it, expecting that it will be in a short time a distinct government."

This company was formed at Windham, Connecticut, July 18, 1753, and articles of agreement were signed by two hundred and fifty subscribers. The company began its career amid great enthusiasm. The price of the shares quickly advanced from two Spanish milled dollars to nine. The Connecticut colonies invested heavily in this company formed "to enlarge his Majesties English Settlements in North America, and further to spread Christianity, as also to promote our own temporal interests." The land purchased of the Indians for £2,000 comprised an area of sixty miles in breadth, north and south, by about one hundred and thirty miles east and west, between parallels forty-one and forty-two, and bounded on the east by a line

parallel to Susquehanna River, and always ten miles distant therefrom. After preparations had been fully made, settlement was delayed because of the hostilities leading up to the French and Indian War. The one exception to this was the settlement near the present site of Wilkesbarre, in 1762, which was destroyed by the Indians. There arose serious questions about the title to the land, whether it belonged to Pennsylvania or to Connecticut. In view of this uncertainty emigration came to a standstill. After waiting till 1768 and not being able to come to any agreement, armed conflict for the possession of the country broke out between the settlers from Pennsylvania and Connecticut. This continued with more or less uncertainty and violence till 1787, when the war within the State was brought to an end. The question of jurisdiction was finally settled in 1790 in favor of Pennsylvania.

The pre-Revolutionary land companies were important in the encouragement they gave settlers, but most of them, like the Susquehanna Company, came to grief. A much greater work was done by those organized after 1783. Permanent settlements were formed by them and the foundations laid for cities and future States.

The most important of these companies was the Ohio Company of Associates. Its influence was so great upon the settlement of the West that a somewhat full account of it is necessary. When the Revolutionary War was nearing its close, the question prominent in the minds of soldiers and officers was,—what were they to do when the time came for them to return to peaceful occupations? Some of them had been in the field for seven years. They were in deep poverty, and knew not how they were to make a living when the time came for them to return to their homes. Many of them were broken in health because of continued privations. These men had been paid for their services in the Revolution with securities which were almost worthless, and Congress had no money with which to satisfy them. The only resource it had at the close of the

war with which it could recompense the men was land. Congress had been prodigal in its promise of such bounty, even when it had no lands to give and when the only way by which it might be secured seemed to be to purchase it from the States. Congress, on September 16, 1776, had made an offer of bounty lands as follows: to a colonel, five hundred acres; lieutenant-colonel, four hundred and fifty acres; captain, three hundred acres; lieutenant, two hundred acres; ensign, one hundred and fifty acres; private, one hundred acres. On August 12, 1780, eight hundred acres was the amount of bounty land obtainable by a brigadier-general, and one thousand one hundred by a major-general. On June 16, 1783, two hundred and eighty-eight officers of the Continental Line, of whom the great majority were from New England, petitioned Congress to carry out this agreement. They gave the bounds of the tract of land which they desired, and asked that it be assigned as a distinct government to be admitted in time as one of the confederated States; that these lands be secured from the natives, and that the bounty land be set off to those who had claims to it. But Congress failed to act on the petition, and the matter was not settled for several years. Benjamin Tupper, one of the signers of the petition, was appointed United States Surveyor to fill a vacancy caused by the retirement of General Rufus Putnam. He worked in the Northwest Territory, and on his return he made a report concerning the country. On January 10, 1786, Tupper and Putnam issued a paper giving information about the Ohio country, and asking those who were interested in the formation of an association to meet in their respective counties and appoint delegates to a meeting at the Bunch of Grapes Tavern in Boston, March 1st, where a plan of association should be decided upon. At this meeting, Rufus Putnam was chosen chairman, and Winthrop Sargent, secretary. Putnam, Tupper, and others gave such a pleasing description of Ohio, that it appeared wise to attempt to form a settlement there. A committee of five was appointed to report articles of association to the

convention. This report was made two days later, and was adopted as the constitution of the association known as the Ohio Company. The design of the association was to raise a fund in Continental certificates for the sole purpose, and to be appropriated to the entire use, of purchasing lands in the western territory belonging to the United States, for the benefit of the company and to promote a settlement in that country. This fund was not to exceed $1,000,000 in Continental specie certificates, exclusive of one year's interest thereon, and was to be divided into shares of $1,000 each. These Continental certificates had been issued in payment of money due to the soldiers and in the settlement of other debts. They were interest bearing, but the interest had not been promptly paid. They had greatly depreciated in value, as the general government appeared insolvent; so that they were worth only a small percentage of their face value. No person could hold more than five shares or less than one.

On March 8, 1787, a meeting of the Ohio Company was held in Boston, where it was found that only two hundred and fifty of the company's shares had been subscribed for. Cutler gives as a reason for this lack of subscribers the high price which Congress had placed upon the public lands. The lands belonging to Massachusetts and several of the other States were sold at the time for fifty cents an acre, and the company could not give more than that for lands on the Ohio. There was at the time a strong desire to migrate, because the old towns were filled up; and Cutler believed that the subscription would be quickly completed if Congress would grant favorable terms to the company. Again, there were many who hesitated to become subscribers, because of the uncertainty of obtaining, in one place, a tract of land large enough to make the undertaking a success. The land ordinance of 1785 did not provide for the sale of large tracts of land in a way that would meet the needs of the Ohio Company. The company appointed three directors, General Samuel H. Parsons, General Rufus Putnam, and the Rev. Manasseh

Cutler, who were ordered to make application to Congress for a private purchase of land, large enough and of such description as would suit the purpose of the company. The directors authorized General Parsons to make the purchase from Congress. He presented a petition to Congress in May. It was referred to a committee. In conference with this committee, Parsons proposed a purchase of land on Scioto River; as there was no quorum present in Congress, no business could be done, and he returned home; but the land selected by Parsons did not please the other directors, who insisted that the eastern line of the proposed settlement should be Muskingum River. If they could not get the land they wished, they proposed giving up the purchase as a company. Cutler now went to New York, to attend to the matter himself. He delivered his petition for the purchasing of lands for the Ohio Company on July 6th, and Congress appointed a committee to consider the matter; with this committee Cutler held frequent interviews. The land purchase could not be made at that time, because Congress was busy with an ordinance for the government of the territory. The government of the western country and the land purchase were closely interwoven. A copy of the proposed ordinance was sent to Cutler, who was asked to remark upon it and propose amendments. We know that he did this, but it is not absolutely certain just what his proposals were; probably the changes spoken of in the last chapter, which took place in the bill just before its final presentation, were due to his suggestions. When he returned to New York after his journey to Philadelphia, he wrote in his diary: "The amendments I proposed have all been made, except one, and that is better qualified."

There was considerable opposition to Cutler's plan in Congress; and when an ordinance was finally passed in consequence of his petition, it was so different from what he wanted that he refused to accept it. It made no allowances for a university or for religious purposes, and the price of land was fixed at a dollar an acre, with a discount of not over

LAWS

PASSED

BY

THE LEGISLATIVE COUNCIL,

AND

HOUSE OF REPRESENTATIVES,

OF

ILLINOIS TERRITORY,

AT

THEIR FOURTH SESSION,

HELD

AT KASKASKIA,

1815—'16.

KASKASKIA:

PRINTED BY

MATTHEW DUNCAN

PRINTER TO THE TERRITORY.

1816.

LAWS

PASSED IN THE

TERRITORY

OF THE

UNITED STATES

NORTH-WEST

OF THE

RIVER OHIO,

FROM THE

COMMENCEMENT OF THE GOVERNMENT

TO THE

31st OF DECEMBER, 1791.

Published by Authority.

PHILADELPHIA:

PRINTED BY FRANCIS CHILDS and JOHN SWAINE

M,DCC,XCII.

Laws of the Illinois Territory and of the territory northwest of the river Ohio.

Originals in possession of the Chicago Historical Society.

STANFORD LIBRARY

one-third of a dollar for bad lands, expenses, and other incidentals. Cutler planned to leave New York and attempt to make the purchase from some of the States on more favorable terms. Colonel Duer, secretary of the Board of Treasury, came to him with a secret proposal from a number of the principal citizens to enlarge the association so as to take in another company. What happened on the evening of the 20th, when Duer and Cutler were closeted together after their "dinner of delicious fried oysters," we do not know, but Cutler was certainly justified in assuming that negotiations would move on more rapidly. From this time on, political complications came into the affairs of the company, and there were wheels within wheels.

When it was seen that Arthur St. Clair, president of Congress, wished the position of governor of the Northwest territory, Cutler, to influence the Southern members favorably, gave up his candidate, General Parsons, and supported St. Clair. Because of Cutler's shrewd management the Ordinance was passed on July 27th, just as he wished to have it, and the Board of Treasury was ordered to close the contract. Cutler writes in his diary under this date: "By this ordinance we obtained the grant of nearly five million acres of land amounting to three million and a half of dollars, one million and a half of acres for the Ohio Company, and the remainder for a private speculation, in which many of the principal characters in America are concerned. Without connecting this speculation, similar terms and advantages could not have been obtained for the Ohio Company."

Public securities were at this time worth only twelve cents on a dollar, so that the actual price agreed upon was about eight or nine cents an acre. The speculation, in which Colonel Duer was the leader, was the disastrous and in some aspects disgraceful Scioto Purchase. We will leave this for the moment and follow the vastly more important part of the bargain—the Ohio Company's purchase.

These lands, according, to the contract made between Dr. Cutler and the Board of Treasury were "bounded on

the east by the western boundary of the seventh range of townships; south by the Ohio, west by a meridian line drawn through the western cape of the Great Kanawha River; and extending so far north that a due east and west line from the seventh range of townships to the said meridian line shall include the whole." The contract was completed October 27, 1787, when Dr. Cutler and Winthrop Sargent paid $500,000 to the Board of Treasury. Two contracts were made, one for the Ohio Company, and one for the Scioto Company, thus completing what Cutler called "The greatest private contract ever made in America." Plans were at once made for entering and settling the new country. Two companies were sent forward in December and January, and united on Youghiogheny River February 14, 1788. They began the descent of the Ohio on April 1st, and arrived at the mouth of the Muskingum on April 7th, landing on the bank opposite Fort Harmer. The site was selected because of its proximity to Fort Harmer, which would be a defence to the settlers against the hostile Indian attacks, and because of its favorable location in reference to the two rivers. General Parsons had thoroughly explored the country bordering the Ohio as far as the Big Miami and this spot seemed to him best suited for a settlement. Unlike the settlements in Kentucky and Tennessee which were separated by long distances and mountain barriers from their eastern neighbors, this site was in close touch with the east. It was not a break with eastern life. Its inhabitants were intensely patriotic, many of them were Revolutionary soldiers and descendants of the Puritans and wished to keep up the New England traditions in social life. They wished to have for themselves and their children all the benefits of well ordered New England society. Their plan from the first was to have a straitly governed community.

At the meeting of the Ohio Company, August 29, 1787, it was resolved that five thousand six hundred acres of land near the confluence of Ohio and Muskingum Rivers should be reserved for a city and commons. This reservation was

later reduced to four thousand acres. The surveyors began at once to lay out the streets for the future city. These were run at right angles to each other and spaces were reserved for public parks. The city was named Marietta in honor of Marie Antoinette, an evidence of the regard which these Revolutionary soldiers had for France and the queen who had been so friendly to the Americans. The curious classic taste of the founders appears in the names they gave the parks of the city. A small square was the Capitolium; a broad road leading up from the Muskingum was the Via Sacra; the stockade with its blockhouses at the corners was called the Campus Martius.

The work of clearing and settlement was carried on with system and vigor. A blockhouse and stockade were built as a defence against possible Indian attacks, though the natives were at this time friendly. Emigrants continued to arrive, so that at the end of the year there were one hundred and thirty-two men, besides women and children. By 1790 there were eighty houses in Marietta and settlements were extended up the Muskingum and down the Ohio. The crops were abundant and the rivers and forests abounded with game, so that the Marietta colony and its adjacent villages were fairly started on their prosperous career.

The second of the two contracts with the Board of Treasury made by Cutler and Sargent in October, 1787, for themselves and associates, gave them the option of purchasing a tract of land between Ohio and Scioto Rivers, estimated to contain from three million to three million five hundred thousand acres. Payment at the rate of $1 an acre, subject to a discount of one-third for bad land, was to be made in gold, silver, or securities of the United States. This was known as the Scioto Purchase. The whole ownership was divided into thirty parts in which Duer had thirteen, Cutler and Sargent thirteen together, and four parts belonged to the three conjointly. Others were soon admitted into the company by purchase of shares. Duer loaned to the Ohio Company $143,000, so that it might

make its first payment. This amount was repaid when it was collected from the shareholders in the Ohio Company. The plan of the speculators was to sell the right of preëmption in Europe, where large amounts of the public debt were held, and it was thought that the creditors of the country would gladly change their securities for lands in this very promising region. It was thought that the French people especially, owing to the distracted condition of their own country, would eagerly take this opportunity to secure homes in the New World. Accordingly, Joel Barlow, one of the company, was sent to France to conduct the sale of the land. He was a man of thirty-four, who had already acquired some literary fame by his poem, *The Vision of Columbus*. At first he met with no success in Paris, but in 1789 he became acquainted with William Playfair, and through his efforts a company was formed in Paris, which purchased from Barlow three million acres on the Ohio west of the seventeenth range of townships. The times were very favorable for plans of emigration in this year, in which the Bastille fell. Hundreds of people, weary of the disturbances in France and enticed by the very alluring pictures of the West presented by Barlow, were ready to emigrate. The country was undoubtedly misrepresented to them, both in regard to its location and its attractiveness to settlers. Sales were rapidly made of lands to which the company had no title. It failed to comply with its obligations to the government and never gained a title to the land in question. Some of the sales were for cash, others were upon terms. Barlow wrote to Colonel Duer to have houses made ready for the emigrants and to treat the newcomers kindly, because if these first emigrants were satisfied, there were thousands more ready to follow. Duer placed the matter of preparation in the hands of Rufus Putnam. He employed, on behalf of the Scioto Company, John Burnham to engage a company of men in New England to build huts for the emigrants, help them to clear the land, and give them such other aid as might be necessary.

Putnam sent James Backus to Alexandria, Virginia, to meet the emigrants and conduct them to their lands. The emigrants arrived in Alexandria in April and May to the number of six hundred. They were not, as a whole, well fitted for the life before them. Among them were some farmers and merchants, but many were wood carvers, artists, or artisans with trades which would be of no use in a new country. Some of them were placed in possession of the facts in the case while in Alexandria and they refused to make the reckless journey, for they knew that their deeds to the lands sold them by the company were worthless. Some went to New York and Pennsylvania, others remained in Alexandria, and a few returned to France. Meanwhile, Major Burnham and his force of men had reached the town site and erected eighty log cabins, twenty in a row, defended at each corner by blockhouses; higher up the river he built two other parallel rows of cabins of somewhat better quality, intended for the wealthier settlers. These cabins formed the beginning of Gallipolis. This settlement was later found to be on land belonging to the Ohio Company. The emigrants arrived in the wilderness and began the life for which they were in no way suited. Some of them soon became disheartened with the uncertainty of ever establishing a claim to their lands. The Scioto Company failed and went out of existence. The Frenchmen lost the one hundred thousand francs which they had paid for their lands and were without any remedy. The few who remained at Gallipolis petitioned Congress for help and that body responded generously to their request. Twenty-four thousand acres nearly opposite Little Sandy River were granted them. This tract was known as the French Grant. Each inhabitant received by this donation two hundred and seventeen and a half acres, and also the privilege of buying other lands at reduced rates.

In August, 1787, John Cleves Symmes, of New Jersey, petitioned for a western assignment of land on the same condition which the government had made with Sargent and Cutler, with this difference, that, instead of two townships

being assigned for the use of a university, only one should be assigned for the use of an academy. The lands desired were bounded as follows: "Beginning at the mouth of the Great Miami River, then running up the Ohio to the mouth of the Little Miami River; thence up the main stream of the Little Miami River to the place where a due west line to be continued from the western termination of the northern boundary line of the grant to Messrs. Sargent, Cutler and Co. shall intersect said Little Miami River; thence due west, continuing the said western line to the place where the said line shall intersect the main branch or stream of the Great Miami River, thence down the Great Miami to the place of beginning." This petition was granted and preparations were at once made for opening up the country to immigrants.

In the statement issued to secure purchasers, a very favorable view is presented of this land, which was said to be never too hot in summer, and moderate in winter; a well-watered land, with navigable rivers and fine mill streams; cheaper and better than the land on the Kentucky shore; and it was emphasized that land titles would be so clear and certain that there could be no possible doubt about them, quite contrary to the conditions which existed in Kentucky, where the titles to the land were often not well founded.

The only privilege which Symmes reserved for himself as a small reward for his trouble in the business was the exclusive right to the entire township which shall be lowest down in that point of land formed by Ohio and Great Miami Rivers, and the fractional parts of townships lying northwest and south. This he planned to lay out in city lots and give away every second lot on condition that a cabin be built thereon and occupied within two years.

Symmes had obtained his knowledge of the country from Benjamin Stites, a New Jersey trader, to whom the country was familiar, but not satisfied with his description, Symmes had himself examined the land between the Miamis along

the shore of the Ohio, and become satisfied with its fertility and general desirability for settlement. It was found when the land was surveyed between the prescribed limits that instead of a million acres, there were only about two hundred and fifty thousand. The land was offered to settlers on very favorable terms and immigration to the tract known as Symmes Purchase began.

Other large purchasers of land had the same idea that actuated Symmes. They would choose the best possible location for a city, generally near the mouth of a navigable river, and get their reward from the unearned increment in the land values.

Matthew Denman, of New Jersey, with the idea of founding a city, purchased eight hundred acres of land opposite the mouth of Licking River. Denman's party left Limestone, Kentucky, December 24, 1788, and proceeded to the spot which they planned to make into a city. The name chosen for the city was Losanteville, a compound of French, Latin, Greek, and English, meaning "the city opposite the mouth of the Licking." When St. Clair, as governor of the Northwest Territory, visited this place he named it Cincinnati in honor of the society of which he was an original and prominent member. The contemplated city was laid off into lots by Colonel Ludlow, a certain number of them to be given to the first actual settlers.

As a defence for the settlers, Fort Washington was built, a fortress of hewn timbers about one hundred and eighty feet square. This was the most extensive and important fortification in the Northwest Territory. It had much to do with the future prosperity of the city, as by it the village was so well defended that the people could feel reasonably safe from Indian attacks, and Cincinnati soon became the business centre of the Miami country. In 1791, the future city had twenty-five or thirty cabins, but judging from the account of General Harrison, the settlers here were as a class inferior to those at Marietta, and much given to hard drinking. In 1795, the town had grown to the number

of three hundred families, and the log cabins were being replaced by frame houses.

Two other small settlements were formed in the Symmes Purchase in 1788 and 1789. Major Benjamin Stites purchased a tract of ten thousand acres at the mouth of Little Miami River, and landed here in November with a small company. They built a log fort and laid out a town which they called Columbia. For several years this was the most flourishing of the villages in the Miami Purchase, and seemed destined to become a great business centre, but the location of the garrison at Cincinnati, and also its choice as the county seat, gave that city a great advantage.

The other settlement was attempted under the direct supervision of Symmes. The place selected for the city was North Bend, so called because it is the most northern bend in the river in its southwestern portion. A landing was made here about the 1st of February, 1789. The city, as laid out on paper, was a very large one called Symmes, but the city never materialized. It continued to be the little village of North Bend. At first there was an inducement for the settlers to select this place, because a detachment of troops had been stationed here through the influence of Judge Symmes, but the soldiers remained only a short time and then went to Cincinnati, thus making the latter place much safer for the inhabitants, and settling the question of the supremacy in the three settlements.

These three settlements had much in common with Marietta and the villages in the Ohio Company's Purchase. The land regulations were much the same and there was the same desire to build cities. As a rule the settlers were from the Central States and many of them were Revolutionary soldiers; most of them proved to be good material for pioneers.

When Connecticut ceded its claims to western lands to the general government, it retained a tract in the northeastern part of Ohio, known as The Western Reserve. In 1792, the Connecticut government gave a strip of land

of five hundred thousand acres in extent, lying across the western end of the Reserve to recompense the people who had suffered losses on account of British raids during the Revolution. These were called the "Fire Lands." The next year the remainder of the Reserve was offered for sale, but did not find a purchaser for several years. There were several reasons for this delay. It was considered a long way in the wilderness, and this section of the territory was little known. A second reason was that the title of Connecticut to the land was not altogether clear. In 1795 this tract was sold to a company of five persons for $1,200,000. This money became the Connecticut School Fund. There had been no survey of the land but it was supposed to contain four million acres, which was found to be about a million acres more than it really contained. This company constituted the Connecticut Land Company. The State transferred any right which it had in the lands to this Company, but gave only a quit claim deed, leaving the work of extinguishing the Indian titles to the Company.

The first group of settlers from Connecticut to enter this wilderness was led by Moses Cleaveland, of Canterbury, Connecticut. It consisted of a total of fifty persons, some few taking their families with the intention of settling. They met the Indians at Buffalo and purchased their title to the land. The sum paid was £500 York currency, part in cash and part in goods. In the list of goods was included one hundred gallons of whiskey. But the pioneers had some left, for on July 4, 1796, they celebrated the national holiday at Conneaut Creek with "several pails of grog," and what is more astonishing they "supped and retired in good order." Surveying was begun and carried on through the season, and in the summer, at the mouth of the Cuyahoga, the foundation of a future city was laid and named Cleaveland in honor of their leader.

Serious complications arose over questions of jurisdiction; the settlers did not know whether they were self-governing, under the control of Connecticut, or under the direct

jurisdiction of the United States. If the Ordinance of 1787 extended to them, then the United States had control and the State of Connecticut had no right to sell the land, so that their titles were of no use. These matters were settled in 1800, when the title of Connecticut to the soil was confirmed and jurisdiction was given to the United States. During this period when there was no established law, there was little trouble, because the settlers had been trained in Connecticut habits and customs. In several cases a township government had been organized before a body of emigrants left home. Another reason for the tranquillity of the Western Reserve was the small number of settlers in the great wilderness, for there was little inducement for emigrants to come where land titles were uncertain. In 1798 there were but fifteen families on the Reserve. The largest settlement was at Youngstown; Cleaveland had only three families. By the end of 1800, however, the Reserve had a population of thirteen hundred and grew very rapidly from that time. Governor St. Clair, September 22, 1800, issued a proclamation establishing the Western Reserve as the County of Trumbull, and it became a part of the Northwest Territory.

CHAPTER VII

THE ORGANIZATION AND ADMISSION OF THE FIRST NEW STATES TO THE UNION

KENTUCKY grew very rapidly in population in the closing years of the century. The land was fertile and could be reached with comparative ease by way of the Ohio. Very important also was the security from the Indians compared with the conditions existing on the northern banks after 1787. In 1784, there were probably thirty thousand settlers, in more than fifty settlements, in Kentucky. By 1787, when settlements began in Ohio, Kentucky had a population of about eighty thousand. But this rapidly increasing population was not satisfied with the government it had. When the early settlements were established they had no separate government, but were regarded as a part of Fincastle County, Virginia. In 1776, Kentucky County was set off from this and Harrodsburg made the county seat. In this way Virginia recognized the existence of the western people. With the increase in population, one county was found too large for proper administration, therefore, in 1781 the "District of Kentucky" was divided into three counties by Act of the Virginia Legislature. Jefferson County stretched along Ohio River for two hundred miles between Kentucky and Green Rivers; Fayette County along the Ohio from the Kentucky to the Big Sandy Rivers. Lincoln County comprised the southeastern portions of the present State of Kentucky. These were organized with a civil and military government like the other Virginian counties. Each

county had a colonel, lieutenant-colonel, and surveyor. The three colonels were justices of their respective counties. But the political conditions remained unsatisfactory. Some of the settlements were five hundred miles from the capital of Virginia and action upon any administrative matters which had to be referred to the home government was greatly delayed. The Virginian government was so far away that the needs of the Kentucky settlers, from the nature of the case, were not understood and appreciated. It often took months before an answer was obtained from the capitol concerning some question of importance in the civil or military administration. The conviction was forced on Kentuckians that they were an isolated colony, with interests in many cases different from those of the home State. During the Revolutionary period Kentucky had received very little aid from Virginia, because the latter was not able to give it; and yet the Kentucky military operations were greatly hampered by the necessity of receiving orders from Virginia. For these reasons, as Kentucky emerged into the condition of a settled country, there was, among its inhabitants, a strong feeling that it ought to become a separate State, and that only as a separate State could it be free from the delays and irritations caused by its dependence upon the Virginian government.

With the increase of its population Kentucky took on the habits of a civilized community and its productions exceeded the amount required for its own needs. It wished to export its wheat and other products and the natural channel of commerce was Mississippi River. But the river, below the thirty-first degree of latitude, was held by Spain, which was unfriendly to the United States and therefore held in its own hands the commerce of the river. This question of the navigation of the Mississippi was the most important matter in the politics of Kentucky. If the river was closed to the people of that territory there was no possibility of its growth, for the eastern market was too far away and the journey was too difficult. The bond

connecting the States was a very weak one and there was serious danger that Kentucky might, because of her interest in the navigation of the Mississippi, be drawn into alliance with the country controlling it. There was a strong feeling that the eastern States were selfishly willing to deprive Kentucky of this natural outlet if they could themselves, by treaty, gain certain advantages. These and similar questions involving all the West, are closely connected with the purchase of Louisiana, and may best be considered in connection with that transaction.

The first request for separation was presented to the Continental Congress in 1780 in a petition signed by over six hundred men from Kentucky and Illinois. They petitioned for separation because of the little aid given them by Virginia, the long distance from the seat of government, in some cases as much as a thousand miles, and the uncertainty as to the ownership of the country; they did not know whether their territory belonged by right to the United States or Virginia. They asked to be formed into a separate State or that Congress should grant them such rules as should be proper during the continuance of the war. The signers of this petition were not men of prominence and apparently Congress paid no attention to it.

The first serious attempt at separate statehood did not come till after the close of the Revolution and then it arose out of military necessity. There was danger of a general Indian invasion in 1784, and on the invitation of Benjamin Logan, county lieutenant, his field officers came together to see what could be done to meet the emergency. It was found that they could do nothing without orders from Virginia, and Virginia was too far off to be of much help. The officers issued a circular letter recommending a meeting to consider this subject, and the meeting was appointed for December 24, 1784, at Danville. The government was essentially military, so was the basis of representation to this first convention. Each military organization sent one delegate. The evils under which the people were suffering

were discussed. It was felt that Virginia, by proper legislative action, might relieve them of some of the disabilities under which they were laboring, but it was the decision of the majority of the delegates that there was no solution of the problem without a separation from Virginia. But, with commendable moderation, no definite steps in this direction were taken. The delegates realized that they were not civil but military representatives, and had no authority to act for the people of Kentucky, so they transacted no business other than the recommendation that a convention of twenty-five delegates be held in the following May, to which should be sent persons instructed to consider the propriety of an application to the legislature of Virginia for an act establishing the independent State of Kentucky.

This moderation is in commendable contrast to the course taken by the parallel movement which resulted in the formation of the State of Franklin. Possibly, Kentucky had learned something from the experience of her southern neighbor. It is certain that in the more northerly State control was in the hands of men who were conservative politicians rather than impulsive frontiersmen and Indian fighters. This second convention, May, 1785, was careful and moderate. Many of its members had been delegates to the former convention, and it was made up of some of the ablest men of the district. As a result of their deliberation they "Resolved unanimously, as the opinion of the convention, that a petition be presented to the Assembly praying that this district may be established into a State, separate from Virginia," and "Resolved unanimously, as the opinion of this committee, that this district when established as a State ought to be taken into union with the United States of America, and enjoy equal privileges in common with the said States."

The petition to the Virginia Assembly set forth the necessity for separation, calling attention to the inconvenience which came from the long distance from the seat

of government. There was an expression of affection for Virginia and appreciation of the efforts which the parent State had made in behalf of the Kentuckians. Their request was that "Agreeable to the provisional clause in the Constitution of Virginia, the District of Kentucky may be established into a separate State to be known by the name of the Commonwealth of Kentucky." In their desire to have a peaceable beginning of the State the delegates further petitioned that after the State was established a convention might be authorized to assemble and adopt a constitution and form of government.

In an address to the inhabitants of the District of Kentucky the convention gave at length and in plain language the results of its deliberations and the reasons why there should be a separation. In general it claimed that government was ordered for the ease and protection of the governed, and that if these ends were not attained under one form, then it was the right of the governed to seek a form of administration that would give these blessings. In the present state of affairs the members declared that the people were deprived of many privileges which they had the right to expect. They could not call out the militia to defend themselves against the attacks of the savages until there was an actual invasion. They were ignorant of the laws till long after they had passed, and so penalties might be inflicted for offences never designed. When they prosecuted suits in the High Court of Appeals at Richmond, they were at a disadvantage because of the great cost and expenditure of time and through difficulty in getting witnesses. Because of distance they could not get the same benefit from the government as that which would come to those who were in the eastern part of Virginia, and this evil would become greater as the district became more populous. There was a great difference in the commercial interests of the two sections, and, if invaded, the Federal Union could be of much greater aid to Kentucky than could the State of Virginia. A burden that pressed upon the Kentuckians was

the recent revenue law by which they would be compelled to pay not only a share of the expenses of the civil government in Virginia, but at the same time the entire compensation of every officer in the District of Kentucky.

The May convention also recommended that another convention be held in August further to consider the subject and suggested that the new delegates be elected on the principle of equal representation. This was contrary to the usage in Virginia, where representation in the House of Delegates was by counties without regard to population. It is a suggestion of the freedom and equality naturally associated with frontier life and accentuated by the Revolutionary struggle.

It will therefore be seen that this second convention left matters about as they were before its meeting; the members wisely refusing to take the decisive step toward separation when it became apparent that a considerable minority of the convention was in favor of keeping up the relationship with Virginia. The majority felt that the matter would be very fully discussed in the political clubs which were springing up, and they believed that the August convention would not only be more democratic but better prepared for definite action.

This August convention, elected on the basis of population, contained six delegates from Jefferson County, six from the newly-formed Nelson County, ten from Lincoln, and eight from Fayette. Nearly all the former delegates were returned. Wilkinson, the man who gave the Southwest so much trouble through his later dealings with Spain, was present, and was very anxious for a separation from Virginia. It is probable that his influence gave a much more radical tone to this convention than to its predecessors. Resolutions were adopted and forwarded to the Legislature of Virginia asking for a separation from that commonwealth, and an Address to the People was prepared to increase public favor of the proposed action. There are more reasons presented in the address to the people of the District

of Kentucky than had been expressed at the former convention and the grievances are stated in stronger language. One illustration of the difference in language may show the different spirit in the convention. In the May convention: "We are subjected to prosecute suits in the High Court of Appeals at Richmond under every disadvantage, from the want of evidence, want of friends, and want of money." The delegates at the August convention said: "The union with Virginia subjects the inhabitants to expensive and ruinous suits in the High Court of Appeals, and places the unfortunate man of mediocrity completely in the power of the opulent."

But if this request for separation had been granted according to the expressed desire of the convention Kentucky would have been constituted an independent State outside of the Federal Union. This was what some of the schemers wished, because then they would be in a position to make good terms with the Spanish authorities at New Orleans. If Virginia had acceded to the request for separation as speciously worded by the May convention, it would have prepared the way for uncertainty of status in all the western country. Virginia wisely refused to grant the prayer of the Resolutions. It was willing to grant independence, but upon these conditions: That a new convention should be held in Kentucky in September, 1786, and if this convention declared for independence, Kentucky was to become a State September 1, 1787, provided that Congress before June 1, 1787, consented to the erection of the new State, and agreed to its admission into the Union. These conditions did not please those who were anxious for the advantage which would come from trade with Spain when Kentucky could make its own terms with its neighbor at the mouth of the Mississippi. But the conservative party wished to accept the propositions of Virginia, and a spirited political campaign began to secure delegates to the coming convention. Unfortunately, when the time for the convention arrived, the expedition of Clark and Logan against

the Indians had called away many of the delegates so that no quorum was present; hence all that the members present could do was to adjourn from day to day until the return of the military expedition made it possible for a quorum to assemble. The delay in securing a quorum consumed several months of valuable time, so that, in those days of slow communication, it seemed out of the question to fulfil the condition that Congress should agree to admit Kentucky into the Union before June 1, 1787. It was not until January, 1787, that the convention was able to transact business. It then explained to Virginia the reason for the delay, and requested necessary changes, made by the delay, in the conditions of separation. Virginia passed an Act providing that at the next election, to be held in August, 1787, five representatives from each of the counties should be elected by the free male white inhabitants of the district; that the representatives so elected should meet and determine whether it be expedient and the will of the people, that the District of Kentucky should be erected into an independent State. The Act also provided that these representatives, if separation met with their approval, should appoint a day, after September 1, 1787, when the authority of Virginia should cease over the district, provided that Congress prior to July 4, 1788, should assent to the separation, and release Virginia from her Federal obligations arising therefrom, and also agree to admit Kentucky into the Federal Union as an independent State. This would postpone for more than a year the independence of Kentucky. Instead of September 1, 1787, as contemplated in the first Act, January 1, 1789, was fixed as the earliest day. This was not a pleasing condition to many of the Kentuckians and the Separatist movement grew. It was a time when they feared that their interests in Mississippi River were being overlooked and disregarded by Congress, and these fears were skilfully increased by the leaders of the Separatist party. The United States did not consent before June 1st to the admission of Kentucky into the Union, so

negotiations looking to separation had to be commenced again. The nation was held together by very slight ties, and it was known that the disunion element was strong in Kentucky, so Congress considered it wiser to deal with the district as a part of Virginia than as an independent State. It was the time when the new Federal Constitution was under consideration, and Kentucky could do much less harm with its disunion sentiments if it came in after formation of the stronger union made possible by the Constitution than it could if it came in when the bonds between the States were as weak as they were under the Confederation.

On September 17, 1787, another constitutional convention assembled at Danville, and it was unanimously decided to separate on the conditions offered by Virginia. An address was sent to the Federal Congress, notifying that body of the action taken. But the Federal Congress was in its last stages, and it deferred the question of the admission of Kentucky to the Congress which should meet under the new Constitution. This delay further angered the Separatists and gave an impetus to their work. Efforts were made in 1788 to have Kentucky declare itself independent, and there were suggestions in the remarks of some of the leaders that union with the United States would not necessarily follow separation from Virginia. A later constitutional convention, in November, 1788, decided that Kentucky should become a State of the Union. In 1791, the legislature of Virginia passed an Act which provided that the District of Kentucky should become "separate from and independent of the State of Virginia from and after the first day of June, 1792."

The ninth and final convention met at Danville, on April 3, 1792, and drafted the first constitution of the State. The membership of this convention was quite different from that of the earlier ones. The old leaders were not there, and their places were taken by younger men, who saw more clearly than their predecessors the benefits that would come from the admission of Kentucky into the

Union. The most prominent of these men was a lawyer who had recently come from Virginia, George Nicholas. He had been influential in the Virginia legislature in carrying that State for the Federal Constitution, and now in the Danville convention he was readily recognized as the leader. He, more than any other man, framed the Kentucky Constitution, and it is probable that his influence made it so much like the Federal instrument of union.

Kentucky was the second State to enter the Union, and the first from the South; for these reasons, its Constitution merits a description. The legislature consisted of two branches, a Senate and a House of Representatives. The House was chosen annually by the free white male residents; the Senate and the governor were chosen by electors. This was an incorporation into the State Constitution of the plan of an Electoral College, similar to that by which the President of the United States is chosen. The aim was in both instances to choose the wisest men as electors, and then leave them unrestrained in their choice. But the plan did not work successfully. These electors were to be chosen every four years, and were to form a college "for the choice of men of the most wisdom, experience, and virtue in the State as Senators," and at the same time to elect the governor. But there was no provision making it clear whether a plurality or a majority of the electors was necessary to a choice; this omission quickly led to trouble. At the second election, Benjamin Logan received twenty-one electoral votes; James Garrard, seventeen; Thomas Todd, fourteen; and John Brown, one. Assuming that a majority vote was necessary, Todd and Brown were dropped, and on a second ballot Garrard, receiving a majority, was elected. It is equally fair to assume that Logan was legally elected on the first ballot. The Senate had power to fill its own vacancies. A judiciary was constituted; this was made up of one supreme court and such inferior courts as the legislature might establish. The supreme court had original and appellate jurisdiction in all cases respecting land titles.

Of special interest is the attitude of this new State toward slavery. The subject was earnestly debated and the discussions both at this time and before, reveal a very strong anti-slavery feeling. Slavery was admitted but with restrictions on the treatment of slaves and the slave-trade. The ministers in Kentucky, especially the Baptists, were strongly opposed to the institution. They made every effort to keep the slavery clause out of the constitution but did not succeed. The final article on slavery, which passed by a vote of twenty-six to sixteen, was as follows: "The legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners previous to such emancipation, and a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of the State. They shall pass laws to permit the owners of slaves to emancipate them, saving the right of creditors, and preventing them from becoming chargeable to the county in which they reside. They shall have full power to prevent slaves being brought into the State as merchandise. They shall have full power to prevent any slave being brought into this State from a foreign country, and to prevent those being brought into the State who have been since the first day of January, 1789, or hereafter may be imported into any one of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provisions, to abstain from all injuries to them extending to life or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners."

A curious provision is one by which ministers of the Gospel were excluded from the office of legislator. With

this exception the instrument is very democratic and contains few checks on the popular will. It is in sharp contrast to that earlier attempt at government in the same territory, when Henderson, as the representative of the Transylvania Land Company, attempted to set up a patriarchal rule. In one striking way it differed from the governments originated just over Ohio River. There they were particular to make a provision in their constitution for public aid to education. The Constitution of Kentucky contains no reference to a public school system. This was regarded as something which could best be managed by private individuals.

The new State began its career by electing for its first governor a man who had long been identified with the district, General Isaac Shelby. He had rendered the nation important service before and during the Revolution by his skill and bravery at Point Pleasant, King's Mountain, Cowpens, and other places. He had been a legislator in North Carolina and in 1783 removed to Kentucky, where he had been active in the long series of events leading up to the separation from Virginia.

Kentucky succeeded in its efforts to gain independence from the parent colony, while Franklin failed. The settlers were suffering under similar grievances; both were a long way from the seat of government and could not obtain the help against Indian foes to which they considered themselves entitled. They were both inhabited by men who considered themselves capable of self-government and who were not accustomed to restraint. In both cases there were long and irritating delays in granting what seemed a reasonable request. The Franklin experiment was in the hands of men who were men of action and impatient of results. They were headlong in their attempts to gain independence and acted in opposition to the parent State. They would not wait for the slow legal processes, but acted upon what they considered the necessity of the case. They took matters into their own hands as Kentucky was sorely

tempted to do, but which she refrained from doing. Undoubtedly Kentucky learned something by watching the career of her southern neighbor, but, when all is taken into consideration, there is much that is admirable in the self-control exercised by the Kentuckians. There was much free discussion of the subject in the political clubs. There was the strong Separatist party led by Wilkinson, strong because it was the party of action and because it seemed to be the one which looked most to the future prosperity of the State by opening to it the navigation of the Mississippi. But the conservative element was too strong to be led away by the more daring innovators. In Kentucky the Conservatives were in control; in Franklin the Radicals. There is a great difference between the two attempts at statehood in the attitude of the leaders toward the parent State, and this may, in part, explain the conservatism in Kentucky. The Franklin leaders were in rebellion against North Carolina, often going as far as armed rebellion and bloodshed. They believed that North Carolina was not treating them fairly, nor trying to treat them fairly. From the first, relations between the two were unfriendly. Virginia, throughout the negotiations as before them, maintained a cordial attitude toward the over-mountain settlement, which was reciprocated by most of the settlers. The petitions for separation are respectful and refer to the cordial relationship between the two sections. There is willingness that the separation should take place at the proper time and in the proper way, and this is finally accomplished to the benefit of both parties.

The first State that gained admission to the Union was Vermont. There are some striking similarities between the experience of Vermont and Franklin, still more between Vermont and Kentucky. In order to make these similarities clear, a short sketch of the admission of Vermont is necessary. The story of Vermont, in brief, is this: The land was for half a century in dispute between New Hampshire and New York. The former claimed that its western line was a northern extension of the western

Massachusetts line, which would give it control to within twenty miles of the Hudson; while New York claimed the western bank of the Connecticut as its eastern boundary. This disputed land, known as the New Hampshire Grants, was settled by men from the other New England colonies, especially from Connecticut. There were disputes about land titles because of the uncertainty concerning jurisdiction. The New York government was regarded as especially offensive in its treatment of the settlers so that there was armed resistance to the attempts to enforce the decisions of the New York officials. Committees of Safety were organized, and the inhabitants of the Grants established a crude but efficient civil service of their own. They also organized military companies, known as the "Green Mountain Boys." This was the condition at the outbreak of the Revolution. The people of the New Hampshire Grants were without any government, as they refused to recognize the jurisdiction of New York. Delegates, representing the towns, met and pledged their support to the Revolution and formed an association which took steps toward a formal separation from New York, and the union of the towns into a common league. Different conventions met and public opinion turned more and more toward independency. On January 15, 1777, a declaration of independence was made, in which the dwellers in the New Hampshire Grants pledged themselves to maintain this independence and do their full share in support of the Revolution. The name then adopted for the proposed State was New Connecticut, which name was changed a few months later to Vermont. They petitioned Congress for admission and gave the reasons for the step they had taken. But their petition was dismissed, on the ground "That the independent government attempted to be established by the people styling themselves inhabitants of the New Hampshire Grants can derive no countenance or justification from the Act of Congress declaring the United States to be independent of the crown of Great Britain nor any act or resolution of Congress."

Vermont, in July, 1777, adopted a constitution similar to that of Pennsylvania. In this constitution the slavery clause is of interest, as showing the attitude of the first State added to the original colonies. It read as follows: "Therefore no male person born in this country, or brought from over-sea, ought to be holden by law to serve any person as a servant, slave or apprentice, after he arrives to the age of twenty-one years, nor female in like manner after she arrives to the age of eighteen years, unless they are bound by their own consent after they arrive at such age, or bound by law for the payment of debts, damages, fines, costs and the like." Vermont continued to be an independent republic until 1791, exercising all the powers of a sovereign, neutral nation. The unwillingness of Congress to admit Vermont into the Union as a State, while the question of the jurisdiction of New York was still unsettled led the British officials to enter into communication with the leading men of Vermont, with the hope of detaching them from the cause of the colonies. Because of this, in 1780, the leaders in Vermont were unjustly suspected of disloyalty. In these meetings with the British it is probable that these shrewd Vermonters had a double object in view. Their frontier was exposed in an unusual degree to incursions from Canada, and by negotiations with the British they could keep their frontier from being ravaged. Their object may also have been to alarm Congress, and thus induce that body to look more favorably on Vermont's application for admission as a State. Congress followed a policy of putting off the decision of the question from time to time, much to the irritation of the Vermonters. But the little republic continued to grow rapidly by immigration, especially from Connecticut. By the treaty of peace in 1783, Vermont was included in the territory of the United States, but still continued independent, with her own currency, post office, and other marks of sovereignty, for eight years. It was in harmony with the neighboring States, and finally New York saw that there was nothing to gain by further opposition to its admission

into the Union. Commissioners were appointed by the two States, and all matters except the land claims were quickly settled. These were finally adjusted by an agreement that Vermont should pay New York $30,000 in full satisfaction.

The agreement to admit Vermont was hastened by the certainty that Kentucky would soon be admitted. Vermont was the only possible addition that could be made to the northern States, and this must be done in order that the southern States should not have the preponderance. Commissions were appointed and the agreement was made by which Vermont became a member of the Union in 1791. The next year Kentucky was admitted, and this precedent of balancing a slave State against a free State, a northern against a southern, continued almost to the beginning of the Civil War.

The struggles of these two States, Kentucky and Vermont, one northern and one southern, to free themselves from the control of a parent colony and enter the Union were strikingly parallel. Going back before the effort for union we see interesting similarities. Both these future States were settled in the period after the close of the French and Indian wars, and largely increased in their population just after the Revolution. Vermont, like Kentucky, might be called a "dark and bloody ground." It was the battlefield of contending Indian tribes and the meeting place of British and American forces during the Revolution. Both States were settled by stalwart, self-reliant pioneers with strong desires for Anglo-Saxon liberty. Each attempted to gain its independence from another colony, and was strongly opposed in its efforts, New York standing to Vermont as Virginia had to Kentucky. In one respect Vermont was more like Franklin, in that it went beyond protest and became an independent State, but it was more fortunate than Franklin in having men who were trained in the New England town system of government, which made it possible and natural for each little community to be self-governing.

It was more fortunate than Franklin or Kentucky in being in closer touch with sympathetic neighbors. As in the case of Kentucky, this would-be State had its temptation to join an unfriendly power at a time when it was not welcomed by the Confederation, but we cannot say that the temptation was as great with Vermont as with Kentucky. The dilatory tactics of Congress were similar in the two cases, and only after patience was nearly exhausted were the two States admitted. Both alike showed their good sense and patriotism by hearty support of the patriot cause, even when they did not seem to be wanted, and both alike in the end followed the way of wisdom and common sense.

The hesitation of Congress in admitting Vermont was based on the claim that New York had to that territory and the unwillingness of New York to surrender its claim. As long as it was the territory of New York, and that State objected, Congress was powerless. After the consent of New York was obtained on October 28, 1790, Congress soon provided for the admission of Vermont.

In the admission of Kentucky it is worth noticing that it was formed from the territory of Virginia. The lands claimed by Virginia south of Ohio River were not ceded to the Union, but remained a part of the territory. It was provided in the Constitution of the United States that a State could not be formed within the limits of another without the consent of the latter. Congress was bound by this until Virginia consented to the request of Kentucky on December 18, 1789. "The legislature of Virginia consented that the district of Kentucky within the jurisdiction of the said commonwealth, and according to its actual boundaries at the time of passing the act aforesaid, should be formed into a new state." After this, Congress enacted that Kentucky should be admitted to the Union.

Interest centred for a number of years around three points. One of these was the relation of the Kentuckians to the Indians. The State was so large that there was no longer danger that the Indians would drive out the whites.

On August 20, 1794, General Wayne and a company of sixteen hundred volunteers won a brilliant victory over the Indians at Fallen Timbers on the Miami, which practically ended the Indian troubles in Kentucky.

The second point was the free navigation of the Mississippi. The prosperity of the State depended upon this, and the people of Kentucky had a strong feeling that the eastern States were not so deeply interested in this matter as they should have been. The Mississippi problem did not belong to Kentucky alone, but was the most serious question before all the States and Territories west of the Alleghanies. The problem and its final settlement will be considered in later chapters.

A third matter of great interest in the early history of Kentucky was the contest between Federalists and Republicans. Democratic clubs flourished in Kentucky, and on the passage of the Alien and the Sedition Acts the Kentucky Republicans showed great indignation. The Alien Act authorized the president to order out of the country all such aliens as he might judge to be dangerous to the peace and safety of the United States. The Sedition Act provided heavy fines and imprisonment for any who should conspire to oppose the United States government or laws, or who should publish any false, scandalous, or malicious writings against the government, Congress, or the president, intended to bring disrepute or hatred upon them or stir up sedition.

The Kentucky Republicans regarded these acts as unconstitutional and oppressive, and as a protest against them the Kentucky legislature passed a series of resolutions, framed by Thomas Jefferson and introduced by John Breckinridge. These resolutions declared that the States were not united on the principle of unlimited submission to their general government, but by a compact, and that whenever the government assumed undelegated powers its acts were void.

The second resolution stated that Congress had power to punish treason, counterfeiting the securities and current

coin of the United States, piracies and felonies committed on the high seas and offences against the laws of nations, but no other crimes whatever, and that the States had the power to punish all other crimes.

The third resolution stated that Congress had no power over freedom of speech, but that the Sedition Law did abridge the freedom of speech and was therefore void.

The fourth resolution claimed that aliens were under the power of the State in which they resided and not under control of Congress, and therefore the Alien Act was void.

The fifth resolution held that Congress had no power to prevent the migration of such persons as any State might choose to admit, and that to remove those who have migrated was in effect a prohibition of migration and therefore void.

According to the sixth resolution, the imprisonment of a person who was protected by the laws of Kentucky, even if the President of the United States should order such imprisonment, was a violation of the Constitution, which provided that "no person shall be deprived of life, liberty or property without due process of law."

The seventh resolution was a protest against the broad construction view of the Constitution which would destroy all prescribed limits.

The eighth resolution, as finally passed, resolved that these resolutions be sent to the Kentucky representatives in Congress to bring before their respective Houses, and that the senators and representatives use their best efforts to have the obnoxious Alien and Sedition Acts repealed.

The ninth resolution was a long one, and included much of the material in the eighth as originally presented. It instructed the government to communicate these resolutions to the governments of the other States. It continued, "this Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and consequently unlimited powers in no man, or body of men on earth."

These resolutions passed on the 14th of November, 1798. Similar resolutions were passed by the legislature

of Virginia in the same year. These two sets of resolutions were sent to the legislatures of the other States, but they did not meet with cordial approval.

In November, 1799, the Kentucky legislature passed a new set of resolutions, in which the principle was again expressed that the several States were sovereign and independent and had a right to decide whether the compact between the co-States had been infringed or not, and "that a nullification by these sovereignties of all unauthorized acts done under color of that instrument is the rightful remedy."

In the last decade of the century Kentucky grew very rapidly. In 1800 the population consisted of one hundred and seventy-nine thousand eight hundred and seventy-three whites, forty thousand three hundred and forty-three slaves, and seven hundred and thirty-seven free colored. The white population had increased in this time two hundred per cent, and the slave two hundred and twenty-four per cent.

CHAPTER VIII

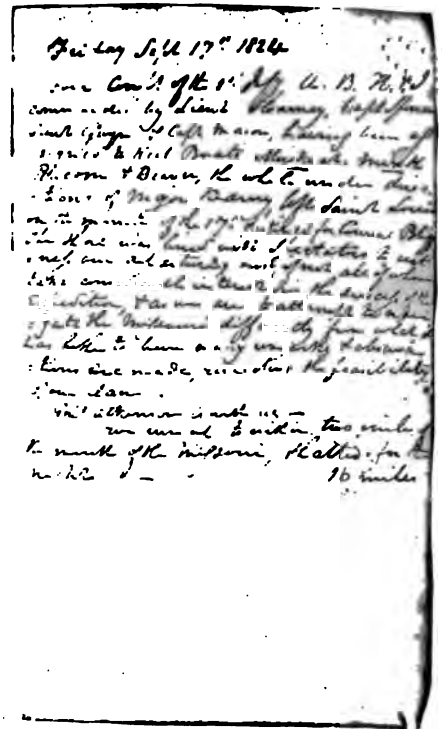
THE TERRITORY OF THE UNITED STATES SOUTH OF THE OHIO, AND THE ADMISSION OF TENNESSEE

WE have noticed the checkered career of the Watauga Association and that of the State of Franklin, especially the attempt of the latter to gain independence and be admitted to the Union. The short and stormy career of the State ended after the legislative convention of 1787, when the adherents of Franklin transferred their allegiance from that State to North Carolina. A rapid increase in population followed in the Cumberland settlements, but these as well as the others were not at all satisfied with the attitude of the Federal government toward the navigation of the Mississippi. Their prosperity was identified with the control of that river. As in Kentucky, this problem was destined to play an important part in the future of the Tennessee region.

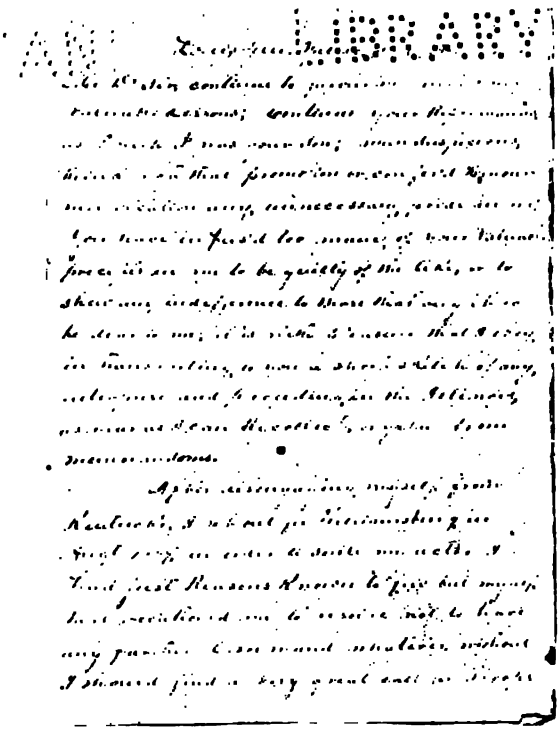
In 1789, North Carolina ceded her western lands to the Union, and the cession was accepted in April of the next year. There was the usual provision that the territory should be made into a State or States, and one sentence showed the fears already entertained by the South: "No regulation made or to be made by Congress shall tend to emancipate slaves." According to the deed of cession, Congress must satisfy certain claims before it could make any disposition of the lands ceded by North Carolina. It was found that there were more claims than the ceded lands could satisfy, so that no public lands were created out of this territory.

On May 26, 1790, an Act was passed for the government of the "Territory of the United States south of the river Ohio." In general the administration of the territory was patterned after the form prescribed in 1787 for the government of the territory north of Ohio River. It was a rule by a governor and three judges, who were to have power until the population of the territory reached five thousand, when it entered upon the second stage of territorial government. The people of the Tennessee district were fortunate in having William Blount for the first governor, a man who was not a typical frontiersman, but rather a polished gentleman accustomed to associate with the most refined people of the country. He was a friend of Washington, stately and dignified, yet he succeeded in winning the affection and confidence of the frontiersmen. From the first, his appointment was very popular. His administration was not marked by any work of legislative importance. There were the usual Indian troubles, a constant feature of southwestern life at that time. Murders and depredations by these savage neighbors were frequent, especially in the Miro district. The navigation of the Mississippi and the relation of the backwoodsmen to the Spaniards in Louisiana were questions of growing interest and anxiety. But in spite of all the hindrances, the settlements continued to grow. The Acts passed by the governor and judges previous to the convening of the territorial Assembly were not of great importance. The boundaries of Greene and Hawkins Counties were defined, and Jefferson and Knox Counties were laid out. Taxes were created to repair or build courthouses, prisons, and stocks. Arrangements were made for holding the Superior Court, and attention was given to various financial matters. But Blount and his associates did little legislating, but when any was done, they followed the laws of North Carolina.

By the ordinance for the government of the territory, the people could elect a territorial legislature, as soon as there should be five thousand free male inhabitants of full age in the district. The first territorial legislature met on August



Page from Kearney's diary, relative to expedition from St. Louis to Council Bluffs. *Original in possession of the Missouri Historical Society.*



Letter of George Rogers Clark to George Mason. *In the collection of Colonel Durrett, of Louisville.*

25, 1794, and continued in session a little over a month. On August 29th, Mr. White presented a bill to establish a university in Greene County. On September 3d, this bill became a law, by which Greeneville College was established. The Rev. Hezekiah Balch became president, and the college was located on his farm.

A few days after this a law was passed authorizing the establishment of Blount College in the vicinity of Knoxville. The liberal tendency of the people of the territory was shown in the regulation that students of all denominations should be admitted to equal advantages of education, and to the honors and emoluments of the college. The students and faculty were exempt from military duty, except in time of a general invasion of the territory. Blount College later became the University of Tennessee.

A lottery was authorized for raising funds to build a wagon road from Southwest Point to the settlements on Cumberland River, and another lottery was authorized to raise a fund for erecting a jail and stocks in Nashville. The disturbed condition of the times and the generous natures of the settlers are evident from the act passed giving adequate relief to those who were wounded or rendered incapable of self-support while in the militia service of the territory. This aid was also extended to the widows and orphans of such persons, and was to continue from year to year so long as there was need.

The territorial Assembly which convened in January, 1795, passed an Act for enumerating the people in the territory. It continued to struggle with the baffling question of taxation. It decided that a white man should pay a poll tax of twelve and one-half cents and a black man twice as much. In recognition of the excellent work being done by Martin Academy in Washington County under the presidency of the Rev. Samuel Doak, it gave the institution the right to become a college, under the name of Washington College, with practically the rights and privileges of Blount College. The Act for the relief of soldiers and their families was suspended.

The Assembly was prorogued to meet again in October, 1795, but because of the growing desire that the territory should acquire the rank of a State, Governor Blount called the members together in June, to take such action as might be necessary to bring this about. In the Assembly there was a general feeling, voiced by Sevier, that there were many defects in the present mode of government and that "great and permanent advantages would be derived from a change and speedy representation in Congress." Blount's own wish was that the territory should become a State as soon as possible.

When the enumeration of the people was made in accordance with the vote of the Assembly, it was found that there was a population of seventy-seven thousand two hundred and sixty-two, of whom ten thousand six hundred and thirteen were slaves. This gave the territory the number necessary for statehood. Governor Blount issued a proclamation and five members from each of the eleven counties were elected to the Constitutional Convention.

The convention met January 11, 1796, and opened with a prayer and a sermon by the Rev. Samuel Carrick. William Blount was unanimously elected president of the convention and William Maclin was chosen as its secretary. A committee consisting of two members from each county was appointed to draft a constitution, and it was also voted that this committee should prepare a declaration or bill of rights to be prefixed to the constitution. This committee labored until February 27th, when a draft of the constitution was presented to the convention. It was referred to a committee of the whole and on February 6th was passed unanimously. In the preamble the people freed themselves from the awkward designation which had done service up to this time, "The Territory of the United States South of the Ohio River," and took Tennessee as the name of their State.

The new name was taken at the suggestion of Andrew Jackson, if we may credit the tradition. The name Tennessee was already borne by the principal river and by one

of the counties, but the latter generously offered to give up the name if it was transferred to the State.

The constitution itself is based on that of North Carolina, with some considerable departures from it, and there are many provisions in it taken from the Constitution of the United States. It is as a whole more democratic and the people have more power than is given in the North Carolina instrument. This is due in part to the growth of the spirit of liberty and the successful revolution which had taken place since the adoption of the earlier instrument. The men who had settled Tennessee were naturally the more progressive and democratic, and yet it is a conservative instrument, showing, in general, wise moderation in the departures from the more aristocratic instrument of North Carolina, and never going so far as to place the power in the hands of these who were landless. This difference is shown in the qualifications for governor; in North Carolina, he must be thirty years of age, a resident of the State five years, and having in the State a freehold in lands and tenements above the value of £1,000; in Tennessee, he must have attained the age of twenty-five years, have been a citizen of the State for four years, and possess a freehold estate of five hundred acres of land. There is not a great difference between the two, but the choice was certainly less restricted in Tennessee than in North Carolina. In North Carolina no one could be governor unless he was a comparatively rich man. There were two branches of the General Assembly in both States, and there was required in each a property qualification for eligibility to membership greater than that which was required of voters, but only owners of real property might vote for candidates seeking membership in the Assembly. The salaries paid were very meagre up to 1804. The governor was to receive but $750 per annum; the judges of the Superior Courts $600; the secretary not more than $400, and the treasurer or treasurers not more than four per cent for receiving and paying out all moneys. The attorney or attorneys for the State were

to receive a compensation not exceeding $50 for each Superior Court which he or they should attend. The pay of members of the legislature was limited to $1.75 a day.

The Tennessee Constitution is much more considerate in its treatment of ministers of the Gospel than that of North Carolina. The latter State rather abruptly states "That no clergyman, or preacher of the Gospel of any denomination, shall be capable of being a member of either the senate, house of commons, or council of State, while he continues in the exercise of the pastoral function." This is softened in the Tennessee Constitution to "Whereas ministers of the Gospel are by their profession dedicated to God and to the care of souls, and ought not to be diverted from the great duties of their functions, Therefore no minister of the Gospel or priest of any denomination whatever shall be eligible to a seat in either house of legislature." This prohibition of the political aspirations of the clergymen was not quite so sharp as the clause of the original draft of the constitution which would not only have excluded them from the legislature, but would also have kept them from "holding any civil or military office or place of trust within the State." The debates have not come down to us, but one cannot help wondering whether this aversion to the entrance of clergymen into political life may not have had some more earthly motive than the fear that they might neglect the care of souls.

Freedom in the worship of Almighty God is acknowledged as an inalienable right, and "there shall be no interference with any man's conscience nor any preference given to any religious establishment or modes of worship. . . . No religious test shall ever be required as qualification to any office of public trust under the State"; but another clause reads: "No person who denies the being of God or a future state of rewards and punishments, shall hold any office in the civil department of this State." This, however, was an improvement on the religious clause in the Constitution of North Carolina, which declared that "no person who shall

deny the being of God or the truth of the Protestant religion, or the divine authority either of the Old or New Testament, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the civil department, within the State." The judicial power of the State was to be exercised by superior and inferior courts, but instead of having the judiciary and legislative powers coördinate, the judges, who were to hold their office during good behavior, were to be appointed by joint ballot of the General Assembly. This certainly made the judiciary very responsive to the popular will, and may have been one reason why Jefferson called this constitution "the most republican yet formed in America," but being the creature of the legislature and dependent upon that branch, the judiciary did not have the freedom of action which is necessary for an impartial tribunal. This defect was in part remedied by the constitutional convention of 1834, which provided that the judges were to be elected by the people, and fixed the term of office at eight years. The experiment of having them continue in office during good behavior was not successful. They felt too secure in their seats and some of them conducted themselves in such an overbearing manner and were so neglectful of their duties that the people protested, and there were several cases of impeachment.

Another curious clause of the constitution of 1796 related to taxation. It set forth that all land liable to taxation was to be taxed equally and uniformly in such manner "that no one hundred acres shall be taxed higher than another, except town lots, which shall not be taxed higher than two hundred acres of land each; no freeman shall be taxed higher than one hundred acres; and no slave higher than two hundred acres on each poll."

New principles of constitutional law were brought out when Tennessee made its application for admission. It asserted its right to be admitted as a consequence of certain acts over which the nation had no authority. It claimed a

right to be admitted as a state of the Union without the agency or consent of Congress. The claim was the first instance of the kind, and Congress was wisely careful about establishing a precedent. Tennessee, unlike Vermont and Kentucky was not formed from a part of one of the older States. The land, like the land northwest of Ohio River had been ceded to Congress, and governed, as we have seen, as a territory under the control of Congress so that North Carolina had nothing to say about the statehood. When the constitutional convention had finished its work, the constitution was forwarded to the general government, with a notification that on March 28, 1796, the territorial government would end and the State government begin. When the 28th day of March arrived, Tennessee proceeded on the supposition that it was a State. Senators were elected, who presented themselves at Philadelphia, but Congress did not agree to this method of procedure. In the opinion of both Houses, Tennessee was not yet a member of the Union as a State, and could not be until it was formally admitted by Act of Congress. The right to admission was conceded, also that it was the duty of Congress to admit now that Tennessee had fulfilled the necessary conditions, and the words "shall be admitted" in the Federal Constitution were interpreted to mean that it might become a State after the State Constitution had been formed, but that the admission could only be consummated through an Act of Congress.

On May 5, 1796, the select committee of Congress, having in charge the request of the Tennessee country to be admitted as a State, replied, favoring its admission to all the rights of the original States. Objections were made that the people of Tennessee should not apply for admission until they had been formed into one or more States, and the only body having the right to form them into States was Congress; so that the first step in the movement toward admission was for Congress to determine whether the territory south of the Ohio should be formed into one or two States, and fix the boundaries of such State or States.

Objection was also made to the fact that the census, which was taken to decide whether the territory had a population large enough to fulfil the statehood requirement, had been taken by the territorial government. This was beyond its power under the ordinance, and should have been done by the United States. A third question arose: Had this census been fairly taken? There were evidences to show that the effort had been made to swell the number of inhabitants. It was probable that strangers and travellers had been enumerated several times over. The census had been taken at a time when there was the greatest immigration into the country, and the territorial law was peculiar in that it directed the enumeration of the people within the territory rather than of the inhabitants. The time of the taking of the census was spread over two months, instead of being confined to a few days; so that the same man might be taken in several different counties. There was no proof that unfair methods were used, but there was certainly the possibility of it, and it was considered dangerous to establish such a precedent.

Those who opposed the admission of Tennessee further contended that in the Constitution of the State as submitted to Congress there were marks of haste and inaccuracy; that it contained clauses repugnant to the Ordinance of 1787 and to the Constitution of the United States, and others which might cause conflict later between Tennessee and the United States. It was the more important that these matters should be settled now, because otherwise a precedent would be established that might be followed by other States in the West in a few years. The census question was considered to be of especial importance, because the number of representatives to which States were entitled in Congress was decided by their respective populations. No State had a right to take a census, and certainly a territory ought not to be allowed this privilege. The number of inhabitants returned by Tennessee allowed it to have two representatives; but it was probable, even if the census had

been taken fairly, that the number returned was greater than the number of actual inhabitants. One way suggested to free the nation from this difficulty was to admit Tennessee as a State and then take a census under national direction to determine how many representatives it should have.

On the other hand, it was contended that Tennessee ought to be admitted, because its State government was already in operation, and that to refuse to accept it would be to reduce it to the territorial condition again, to which its people would not willingly submit. If they had exceeded their powers, they had done so unwittingly.

Notwithstanding the many objections, after much discussion, on June 1, 1796, Congress passed a law admitting Tennessee into the Union, declaring that Congress, by the acceptance of the deed of cession of the State of North Carolina, was bound to form the territory into one or more States. It was enacted that only one State should be formed, and that this should be on an equal footing with the original States, and should be called the State of Tennessee. It was declared to be entitled to one representative in the House of Representatives of the Federal Congress. William Blount and William Cocke were chosen to represent the new State in the United States Senate.

John Sevier had been previously elected governor and was inaugurated on March 30, 1796. State affairs moved on smoothly during his administration. He was reëlected for three successive terms. According to the Constitution of the State he could no longer succeed himself and Archibald Roane became governor in 1801. Sevier was again elected to the governorship in 1803.

CHAPTER IX

THE NORTHWEST TERRITORY

In our study of the northwest, we have thus far considered only the scattered communities formed by the different land companies, without considering their government. The land companies were able to get people to go into the wilderness, because of the certainty of a good government under the Ordinance of 1787. According to this ordinance, the temporary administration rested in the hands of the governor and judges. In October, 1787, Congress appointed Arthur St. Clair governor of the territory, and Samuel H. Parsons, John Armstrong, and James W. Varnum judges, and Winthrop Sargent secretary. Armstrong declined to serve, and John C. Symmes was appointed in his place. Dr. Cutler's choice for governor had been, as we have seen, his Connecticut friend and associate, Samuel H. Parsons. But while negotiating with Congress, he found that St. Clair, its president, wished to be governor, and that the bill for the land purchase would go through much more easily if he favored the appointment of St. Clair. This he did, requesting that Sargeant might be made secretary and Parsons first judge. These requests were granted.

Arthur St. Clair, first governor of the Northwest Territory, was a Scotchman by birth, and had received a university training in his own land. Through the influence of relatives, he obtained a commission in the British army. He served as an officer under Wolfe at the capture of Quebec. After the treaty of 1763, he resigned his

commission as lieutenant and settled in Pennsylvania, where he became a farmer and a surveyor. He was prominent in civil life in his colony; and his military training was so highly regarded that at the outbreak of the Revolution he was appointed colonel in the Continental army, and, because of his skill and bravery, was later advanced to the position of brigadier and major general. He was court-martialled for abandoning Ticonderoga, but acquitted from the charge of cowardice. In 1785, he was sent as a delegate from Pennsylvania to the Continental Congress and in 1787 was chosen president of that body.

In July, 1788, the governor came to the Territory, and was received at Marietta with appropriate ceremonies. General Harmer, commander of the fort, with the officers and citizens, welcomed him as he stepped from the twelve-oared barge to the shore. Fourteen guns were discharged at the fort, in honor of the event.

July 15th was the day of the official beginning of the government in the Northwest. St. Clair, accompanied by Secretary Sargent and Judges Parsons and Varnum, made a public entry into the city, where he was welcomed by the citizens. He addressed them in a short speech, in which he showed himself sensible of the honor conferred upon him by the gubernatorial appointment, and a consciousness of the importance of the work upon which he was entering. He referred to the temporary nature of the government and stated that it was to continue only while infancy lasted. He promised to select with the greatest care, and with the assistance of his associates, laws from the codes of the established States. The difficulties before the people were conceded to be very great, but he pictured to his auditors the joy of seeing the vast forests give way to cultivated fields, and cities rising in the former habitations of wild beasts. He reminded the pioneers of the dangers from the Indians, and recommended that cordial relations be cultivated with them, and that they be treated with kindness and justice, in order that the reproach might not be

brought against the settlers that they professed a holy and benevolent religion but did not practise it.

The response of the people was cordial. It was voiced by Rufus Putnam in a rather inflated style. The welcome is in sad contrast to St. Clair's departure. The stormy, disappointing career of St. Clair in the northwest little realized the closing wish of Putnam's address: "May heaven grant to you both in your public character and private life all the felicity that can meet your expectations. May the cold hand of death never arrest you, until you shall have accomplished all the objects which a good and great man can embrace; . . . and then when nature shall begin to sink beneath the weight of mortality may you rise triumphant on cherub's wings, to enjoy your God in realms of endless felicity." It is to be hoped that this last wish has been more completely fulfilled than the earlier ones.

The situation was one which called for all the skill of St. Clair and the able men who were associated with him in the government of the Territory. There was sure to be trouble with the Indians, and the foundation had already been laid for that perennial problem, the conflicting land claims. St. Clair and his judges formed, according to the Ordinance, the legislative body, but their power was restricted to the enactment of laws which were already in force in the older States. They were engaged in this legislative duty from August to December. Some of the older laws they adopted, but they were confronted by conditions which were peculiar to the Territory and so they were compelled, or at least they seemed to be compelled, to exceed the authority given them in the Ordinance and to make new laws themselves. This is the first of many instances which we shall find where the people of the Northwest did not strictly hold to the letter of the Ordinance, but modified it in such a way as to suit their wishes or conditions. The laws passed in this way were, as a rule necessary for the welfare of the people. They were opposed by Congress on the ground above given, that St. Clair and his associates

were not authorized to enact new laws. All, however, but two continued in force until the second grade of government was established in 1798. Then the governor and council enacted a code of laws which were recognized as having legal force. In this exercise of power which was not granted them by the Ordinance, Judges Parsons and Varnum believed that the prohibition was not to be taken literally; that if the clause were given a strict and literal construction, it would defeat in general the purpose of the Ordinance. There were two possible interpretations of the wording of the Ordinance in the lines dealing with legislation: one was that the laws of the older States must be adopted literally and verbally; the other, that parts of particular laws might be adopted, and if the latter is true, then it follows that a law might be adopted composed of such different parts of laws of two or more States as were best suited to the district, provided that such composite laws were not repugnant, but as comfortable as may be, to those of the original States.

St. Clair held the conservative view that the legislators were not allowed such a degree of liberty, and his interpretation was upheld by Congress. His reply is a convincing one, showing that it was not the design of Congress to make them legislators, but only judges.

In the course of the year 1788 laws of the Territory were issued in writing, because there was no printing press within its limits. These laws were very strict. The first was "an act to establish and regulate the militia;" a very important subject in a country where Indian outbreaks were certain to take place. Others were for the organization and procedure of the courts. The death penalty was prescribed for the crimes of murder, arson, and burglary. Drunkenness was punished by a fine of fifty cents for the first offence and one dollar for every subsequent one. Debts and petty offences were harshly treated. No attempt was made in the first two years to enforce the laws outside of Washington County, which was organized July 27, 1788,

and included all of the Northwest Territory east of the Scioto.

The judiciary department was inaugurated September 2, 1788. On the 9th the Judge of Quarter Sessions was installed.

The most important work before the new governor was the solution of the Indian problem. The natives did not like the intrusion of the white men into the region north of Ohio River. St. Clair had been instructed by Congress to use all means to extinguish the Indian titles to the lands north of the Ohio and east of the Mississippi. The earlier treaties with the Indians were disregarded. In 1789, St. Clair concluded the treaty of Fort Harmar with some of the tribes, but most of those interested refused to make a treaty. A long war followed in which the Indians tried to drive the white invaders out of the country north of the Ohio. There were three campaigns in this Indian war. The first was under the command of General Harmar who began the war in the fall of 1790. This quickly resulted in the defeat of the whites, and the Indians, made bold by their success, became more aggressive.

The second campaign was undertaken under the leadership of St. Clair with a large but poorly drilled and equipped body of soldiers. In November, 1791, this army was surprised and put to rout by the Indians, six hundred of the soldiers being killed. This defeat spread terror through the Northwest, and it seemed for a time as if all the country north of the Ohio would fall into the hands of the Indians.

The third campaign was conducted by General Wayne, who led his army from Cincinnati in the fall of 1793, and in August, 1794, met the Indians on Maumee River where he administered to them a crushing defeat, breaking the Indian reign of terror north of the Ohio. In August, 1795, Wayne and the Indian chiefs met and held a long council at Greeneville, where a permanent peace between the United States and the Northern Indians was made.

By this treaty perpetual peace was declared between the Indians and the United States, and prisoners were exchanged. A line was agreed upon which was to be the boundary between the lands of the Indians and those of the white men. North and west of the line was to be Indian territory, south and east that of the whites. This line gave the whites all the land they wanted at the time, and established a peace which lasted for sixteen years. During these years the population of the Northwest Territory increased with great rapidity.

In 1798, a census of the Territory was taken, and it was found to contain a population of five thousand male inhabitants of full age. It was, therefore, ready to enter upon the second stage of territorial government provided for in the Ordinance. St. Clair announced this fact, and ordered the people to elect representatives to the first General Assembly. They were to elect one member for every five hundred inhabitants. Washington County sent two; Hamilton, seven; Ross, four; Wayne, three; Adams, two; and Jefferson, St. Clair, Randolph, and Knox, one each, making a company of twenty-two men, selected without much reference to party affiliation. They were, as a rule, men in the maturity of their powers, without legislative experience, but with good common sense. The representatives met at Cincinnati, February 4, 1799, to nominate ten persons whose names were to be returned to Congress; and from them a selection of five was to be made by that body, and these five were to form the Legislative Council.

St. Clair made an opening address to the representatives when they met for this election, in which he placed before the legislators some of the work which they must do, and suggested that they use the time before the meeting of the Assembly in preparing bills; and mindful of the difficulty he had encountered with the judges, he advised them that there was much in the territorial and civil codes which would require their attention, because the laws in the territorial code were of doubtful obligation, the territorial legislature

never having the power to make laws. He explained that while he had on several occasions engaged in making these laws, it had been done under protest. With and by the consent of the Senate of the United States, the president appointed from the ten submitted to him: Jacob Burnet and James Findlay, of Cincinnati; Henry Vanderburgh, of Vincennes; Robert Oliver, of Marietta; and David Vance, of Vanceville, to be the members of the Legislative Council of the Territory Northwest of the Ohio. Of these, Vanderburgh, of Vincennes, was the only one from outside the territory of Ohio.

This Council and House of Representatives made a notable body of men, some of whom were to have a large influence in the affairs of their respective States and Territories for many years to come. Others were to have an honorable part in the national political life. Of the representatives, was Meigs, a lawyer who was later to occupy the positions of Judge of the Supreme Court, Governor of Ohio, and Postmaster General of the United States. Worthing, Tiffin, and Smith were to become United States Senators, the first two of the trio also becoming governors of Ohio. Benham, Langham, and Findlay had been officers in the Revolutionary War. Burnet of the Council was a lawyer of great ability, and very influential in Territorial affairs. He has placed every student of western history under obligation to him by his invaluable *Notes on the North-western Territory*, which with the *St. Clair Papers*, form the basis of our knowledge of the early settlement and government of the Northwest. Vanderburgh became one of the judges of the General court in Indiana after that territory was organized. Other instances might be given of the confidence which the people placed in these men chosen as the legislative body of the new Territory. The work before them was a new one. The new officials held their first session in September, 1799; St. Clair opened the Assembly with an elaborate speech, in which he congratulated the representatives on the change in government by which law-making

had been taken from the hands of men in whose appointment they had had no agency, and committed to men of their own choice. He presented to the legislators the condition of the Territory and its needs. There were many matters which had to be brought before this first legislature, such as the appointment of new officers, providing for the larger revenue necessary because of the change in government, revising the laws already passed and enacting new ones. St. Clair's recommendations were, as a rule, wise and necessary ones. An efficient militia system in a land which was subject to Indian inroads was one of the great needs. The lands set apart for educational and religious purposes could not be used, because they were still in the possession of the United States. Jails were greatly needed as the lack of them interfered with the execution of the laws; sheriffs were not responsible for safekeeping of prisoners. One great evil mentioned in the governor's message was the sale of spirituous liquors to the soldiers, which he sought to stop.

The new government gave great power to St. Clair. A bill might be passed by a majority of the house and a majority of the Council, but it could be absolutely vetoed by him. He also had authority to dissolve the General Assembly whenever he saw fit.

Besides the general lawmaking, in which Jacob Burnet was the most influential legislator, the time of the legislature was occupied with many important matters. A memorial was received from the French inhabitants on the Wabash and the Mississippi, in which they presented the difficulties which perplexed them because of the old custom of holding lands in common. This trouble was speedily remedied.

Another petition was presented by officers of Virginia regiments, who wished to be allowed to remove with their slaves to the Virginia bounty lands in Southern Ohio. The lands were first located in Kentucky, and this fact had much to do with the early and rapid settlement of that State, but

Arthur St. Clair.

After the portrait by Charles Willson Peale.

Rufus Putnam.

After the pastel by James Sharpless, in Independence Hall, Philadelphia.

when the good lands there were taken up, those who had not selected their allotments were given the privilege of settling on the bounty lands located north of Ohio River. But the request was rejected, the legislators holding that they were bound by the Ordinance of 1787 not to entertain such a proposition.

Another important question was that of jurisdiction over Ohio River between the Territory and Kentucky. This had been claimed by Kentucky on the ground that the land ceded was on the north side of the river. When a person was arrested for crime on a boat tied up on the Ohio shore, punishment was evaded by the plea that the Northwest Territory had no jurisdiction; this resulted in the frequent escape of criminals. In this legislature of 1799, a law was passed which made it legal for the officers of the Northwest Territory to serve processes, civil or criminal, on any waters in or bounding the Territory; this right was disputed by Kentucky. An investigation of the question at issue showed that Kentucky had no right to exclusive control, but that it had been granted by Virginia to be common to the States on both sides.

With the coming of the white man, the Indians were supplied with whiskey. The Moravian missionaries found that this was destroying their work at Gnadenhütten, Salem, and other places. They applied for relief, which was quickly granted by the legislators.

Toward the close of the session, a committee was appointed to report an address to President John Adams. The address was prepared by Mr. Burnet, and passed the House with five dissenting votes, and the Council unanimously. It was very eulogistic. It was communicated to the President by St. Clair in a graceful letter.

A work of great interest in this first session was the choice of a delegate to Congress. According to the Ordinance, their delegate had the right of debating, but not of voting. Burnet was urged by his friends to become a candidate for the position, with assurance of success if he wished

the position; but he gives as a reason for refusing to consider it that he was not wealthy enough to take the position and that he also thought that he could be more useful if he remained in the Territory. The choice was between William Henry Harrison, who had succeeded to the office of Territorial secretary, and Arthur St. Clair, son of the governor. The two Houses met on October 3d in joint session, for the election; the vote was twelve to ten in favor of Harrison. He resigned his secretaryship and went to Washington, where he represented his constituents for one session only. Having no vote in the House, his work had to be done by speech and argument, but it was no less effective. His greatest claim to the gratitude of his constituents was the change which he accomplished in the land laws. He introduced a resolution which provided for the sale of public lands in small tracts. Up to this time, they could not be sold in tracts of less than four thousand acres in extent. The result was that the land had to be bought by the land companies or by wealthy individuals, and poor men could only obtain land by paying advanced prices to these speculators. Harrison presented his plan for a better land system, and it was referred to a committee of which he was the chairman. His bill authorized the sale of land in half and quarter sections. This was finally compromised so that it could be purchased in sections and half sections. Easy terms of payment were given, and land offices for the convenience of the settlers were established at Cincinnati, Chillicothe, Marietta, and Steubenville.

Another movement in which Harrison was influential was the division of the territory into two sections. In the debates on this subject, it was evident that the pioneers did not leave their political affiliations behind them when they went west. St. Clair was a strong Federalist, and he wished to help his party. Harrison had been elected by Republican votes in the Territorial legislature; but he was not outspoken in his advocacy of Republican measures, because he was not called upon to vote, and he thought it more prudent to

refrain from expressing sentiments which might be injurious to his constituents. St. Clair wished to have the Territory divided into three parts. He feared that if it were not divided it must soon become a State, because of the rapid increase in population, and if a State should be formed it would be Republican; and he believed that the longer such action was postponed, the better. He wished to have Marietta the capital of the eastern, Cincinnati of the middle, and Vincennes of the western third. This attempt of St. Clair to prevent statehood by the plan of threefold division became known to his political enemies and aroused great opposition. Harrison wished the Territory divided into two sections, one of which would speedily arrive at statehood. The matter of division was referred to a committee, of which Harrison was a member, which reported in favor of a division into two parts. An act was passed, May 7, 1800, making all that part of the Northwest Territory west of the Greeneville Treaty line of 1795 from Ohio River to Fort Recovery, thence by a meridian line to the international border, a separate government called the Territory of Indiana. The section east of the line continued to be known as the Northwest Territory. It was provided that when a State should be made from the eastern section, all the land west of the north line from the mouth of the Miami should be thrown into Indiana Territory. This new Territory was to be governed by the Ordinance of 1787, except that it was to pass into the stage of representative government when a majority of voters should so desire, without regard to the number of people in the Territory. By this act, the new capitals were Chillicothe and Vincennes. This removal of the capital from Cincinnati to Chillicothe, May 7, 1800, was strongly objected to by St. Clair and his friends, but without avail. It was held that if the national legislature had the right to say where the division lines should be and when the district should be divided, it also had a right to designate a city for the temporary capital. This was a victory for the Republican element, both in the new State and at the national capital.

The removal of the capital to Chillicothe, into the section of Ohio where the Virginian element predominated, was not viewed with favor by the other parties. It was held that this act by Congress was a usurpation of power, because the entire legislative power was in the hands of the General Assembly, and this would apply to the place of meeting as well as to any other subject. The new legislature met in November, 1800, at Chillicothe. The governor made an address in which he called the attention of the legislators to matters needing their attention. The closing words of his address show that he fully understood the party rivalries which were spreading from the older States and which would soon put an end to his political career. He closed with the statement: "I am not conscious that any one act of my administration has been influenced by any other motive than a serious desire to promote the welfare and happiness of the Territory."

Some laws of importance were passed in this session; one of great value in ascertaining land titles, required the proprietors of towns to cause the original plans thereof, together with the affidavit of their correctness, to be recorded.

A difference of opinion existed between the governor and legislature in regard to the formation of counties and the alteration of those already made. It was within his duty, under the Ordinance, to lay out the parts of the district in which the Indian rights had been extinguished into counties and townships. The legislature insisted that when the governor had once formed a county he had no right to make changes in its boundaries, but that such changes were to be made, when necessary, by the legislature with the consent of the governor. St. Clair held that the Assembly had no right to meddle in the matter.

On November 24, 1801, the General Assembly met at Chillicothe. A large amount of business was transacted. Cincinnati, Chillicothe, and Detroit were incorporated as towns and the "American Western University" was

established at Athens on the land granted for that purpose by Congress to the Ohio Company.

One act was passed which caused great excitement. The object of the act was to make such changes in the boundaries of the three States first formed that they would differ essentially from the boundaries as they were defined in the Ordinance of 1787. This was a political move and passed unanimously in the council, but in the house there were eight votes against it. It was proposed that the eastern State should be bounded on the east by Pennsylvania and west by Scioto River up to the Indian boundary, thence by a line drawn to the west corner of the Connecticut Reserve, and with it to Lake Erie; the middle State to extend along the Ohio from the Scioto to the Falls of the Ohio, and the western boundary be a line from that point to Chicago River; the western State to occupy the country between that line and Mississippi River. Seven members of the House of Representatives protested against this, the reason being that, if carried into effect, the change of boundary proposed would retard the establishment of a State government in the eastern district. But in spite of the objection to it, it was approved by the governor. This was a Federal plan, which succeeded for the time being, but reacted seriously against St. Clair. He was held responsible for it. It seemed to be his object to keep Ohio in the Territorial condition as long as possible, because if admitted as a State, it would increase the growing power of Jefferson's party. Agitation and bitter feeling increased until the admission of Ohio as a State. Burnet considered this division of the Territory so necessary for the people at large that he expected it to pass Congress without delay. But it gave great offence to the people of Chillicothe and others of the Scioto valley who had hoped that Chillicothe would be the capital of the future State. This plan would suit Marietta and Cincinnati, but would place Chillicothe on the outer edge of the new State. Worthington and Baldwin were sent to Washington to oppose the act which Mr. Fearing presented to Congress.

Another bill which caused great excitement was one which removed the seat of government from Chillicothe to Cincinnati. The vote on this was much the same as on the former measure. It was a Federal measure and one which St. Clair especially favored. The inhabitants of Chillicothe were very indignant. A mob took possession of the town for two nights under the leadership of Baldwin, an enemy of the governor. The indignation of the mob was directed especially against those who had been outspoken in their desire for the removal of the capital to Cincinnati. They forced the door of the house in which the governor was staying, but did him no personal violence.

After passing thirty laws, the legislature adjourned on January 23, 1802, to meet at Cincinnati on the fourth Monday of November. The discontented minority in the House of Representatives took the matter of the removal of the seat of government to Congress, where the action of the Territorial legislature was reversed by a vote of eighty-one to five.

Through the efforts of Harrison, the Territorial delegate, Indiana was set off from the remainder of the Northwest Territory as a separate government. The act became a law May 7, 1800, and provided that "From and after the fourth day of July next, all that part of the territory of the United States northwest of the Ohio River, which lies westward of a line beginning at the Ohio opposite the mouth of the Kentucky and running thence to Fort Recovery and thence north until it shall intersect the territorial line between the United States and Canada, shall for the purpose of temporary government constitute a separate territory to be called Indiana Territory." This separation implied little change in the government of the Territory.

William Henry Harrison was appointed governor of the new Territory, and on his arrival in January, 1801, he called a meeting of the judges, but only a few laws were passed because the laws of the old Northwest Territory were considered in force in Indiana. It was not considered

necessary to reënact these laws, but the Indiana Territory, for convenience in administration, was regarded as a division of the old Territory. At this time Indiana was very thinly settled and the population comprised French settlements which were older than many of the prosperous cities of the east. These French towns were small and unprogressive, but many Americans had settled in them. This large French element in Indiana made the government a difficult problem. The French inhabitants cared little about the questions at issue in the colonies, but desired to be let alone in the enjoyment of their old laws and institutions. There was much fear on their part that their slaves would be taken from them, and as a result many of them left and went across the river into Spanish territory where slavery was allowed. They did not understand that the slavery clause was introduced to prohibit the importation and increase of slavery and not the prohibition of that which already existed.

We may notice briefly the disposal of the remaining sections of the Northwest Territory, reserving a fuller consideration for the chapters dealing with the admission of the several States.

After Indiana had been separated from the original Northwest Territory, Michigan was the next to follow. It was created a separate Territory in 1805 and was made up of that part of the original Territory bounded on the south by the Ohio line, on the north and east by the international boundary, and on the west by a line extending from the southern extreme of Lake Michigan through the middle of the lake to its northern part and thence north to the international boundary line. The government continued under the Ordinance of 1787 with Detroit as the capital. This Territory was greatly increased in 1818, when Illinois was admitted as a State. By its Enabling Act the northern boundary of Illinois became forty-two degrees thirty minutes north, and all the land north which had been a part of Illinois Territory now became a part of Michigan Territory. In 1834 this was further increased by the addition of the lands west

of the Mississippi as far as Missouri and White Earth Rivers, north to the international boundary, and south to the new State of Missouri. It was admitted as a State, with its present boundaries, in 1837. The population was small in the early history of the Territory, and on account of its distance from the east and the greater attractions of the more southern section, the emigration to it continued small for many years. In 1810 there was a population of only eight thousand four hundred. It entered upon the second stage in 1823. In 1832 the tide of emigration moved toward Michigan, and Detroit, because of its fine location, became more and more a trading centre. The ease of access and communication between the different parts of the peninsula through the advent of steam navigation gave it prosperity and a rapid increase in population. In 1830 its people numbered twenty-eight thousand, and four years later they had increased to eighty-seven thousand.

Four years after the separation of Michigan from the Indiana Territory, western immigration had brought in large numbers to the old French section, and it was erected into the separate Territory of Illinois. Its eastern line was the Wabash to Vincennes and then due north to the international boundary, which line formed its northern limits. The Mississippi marked its western and the Ohio its southern boundaries. Its population was about ten thousand and the people desired a separate government, because of the great distance from the seat of territorial authority, and the consequent lack of strength in the enforcement of the laws in the Illinois country. While additional expense would thus be brought upon the national government, this would be more than made up by the increased value of public lands. The Territory entered upon its second stage in 1812, and was admitted as a State in 1818, with its northern boundary line forty-two degrees thirty minutes north, extending from Lake Michigan to Mississippi River. This was a much more northern line than the one contemplated in the Ordinance, but it was changed

in order to give the people access to the great lakes and the east, instead of turning them to Mississippi River and making them commercially dependent on that river alone.

The last Territory to be organized was Wisconsin, and because it was what was left after the others were formed it was subjected to many changes of boundary and government. Originally a part of the Northwest Territory, on the first division it was included in Indiana; then with the separation of Indiana and Illinois, it became a part of the latter. Its next change, when Illinois became a State, was an incorporation into Michigan Territory, and when that became a State, the remainder was set off as Wisconsin Territory. Wisconsin was admitted into the Union in 1848.

CHAPTER X

THE ADMISSION OF OHIO

THE discussions in Congress over the admission of Ohio throw light upon political affairs of the time, and also give us the opinions of the politicians of the day on the powers of Congress and of the Territory under the Ordinance of 1787. Many points mentioned in the Ordinance were now brought up for the first time, and it was found that there was a great diversity of opinion in regard to them.

On January 20, 1802, Mr. Fearing, the delegate from the Northwest Territory, presented to the House of Representatives a law of the Territorial legislature for the division of the Territory into three governments, the western, the middle, and eastern. Objections were at once made to this because it would remove them further from a State government. This was considered a week later, under the title of "An Act Declaring the Assent of the Territory Northwest of the Ohio to an Alteration in the Ordinance for the Government Thereof." This was debated at length and lost by a vote of eighty-one to five. Manasseh Cutler voted in the negative.

On February 27, 1802, a petition was presented to the House, asking for the admission of the Northwest Territory as a State into the Federal Union. This was referred to a committee which reported later in favor of the admission. It was the opinion of the committee that the number of inhabitants in the specified district was sufficient to fulfil

the conditions of the Ordinance, even when those north of the proposed line were excluded. They reported great and increasing disquietude on the part of the inhabitants because of the act lately passed for changing the boundary line. The committee recommended the formation of a State and specified the boundaries of the same; and that a convention should be called within the eastern district for the purpose of forming a constitution and State government.

When the recommendation that a convention be called came up for consideration, Fearing opposed it on constitutional principles, holding that Congress had nothing to do with calling a convention, and that the power of Congress extended no further than allowing the Territory to enter the Union as one of the States. He was opposed by Davis, of Kentucky, who held that these matters were within the power of Congress, while Griswold, of Connecticut, replied, upholding Fearing and claiming that Congress had no more power to interfere with the Territorial legislature than it had with the legislature of Maryland. It seemed to him a dangerous innovation in the direction of the consolidation of power in the hands of Congress. Mr. Williams, of North Carolina, showed the effort that had been made by the legislature to defeat the will of the people in order that St. Clair and his party might remain in power; that the Territorial form of government was only a makeshift and that these people who had come from different States of the Union were accustomed to a free form of government and it should be given to them as soon as possible. There was no question that they were well suited for self-government, and that they surely had the requisite number of inhabitants. It would be politic as well as just for the Federal government to admit them; the lands, of which the government had large areas, would be much more valuable if the people were allowed to have their natural and political rights, because in that case the population would increase more rapidly, and so there would be an increased sale of lands. Congress should give weight to

the extreme dissatisfaction which the people of the Territory felt with the present government, a dissatisfaction which was sure to increase with the increase of population. It would be a violation of the rights of the people to refuse admission to the Union, because the people were in every way entitled to it. Despite the earnest opposition of the governor's party, Congress voted in favor of calling a convention.

When the boundaries of the proposed State were considered, the question was debated whether Congress had the right to divide the Territory in such a way that part of the Territory, set off from the rest, should remain a Territory, while the rest was made into a State. It was primarily a question of the interpretation of the Ordinance, but there was serious opposition to cutting off Wayne County because the whole of Lake Erie would be thrown out of the State so formed. Objection was made to attaching this northern section to Indiana because of the long distance which the people of the district would be compelled to travel in order to reach the seat of government. It was not fair to put these people back into the first grade of Territorial government after they had reached the second. Especially would this degradation be humiliating to the people after there had been held out to them the expectation that they were to be admitted to the Union as a State.

It was claimed in opposition that if this district in the north should be admitted as a part of the proposed State, it would have a share in forming the constitution, but in a little while it would also be made into a State with its own constitution. If admitted as a part of Ohio, its people would in reality assist in forming the constitution of a State in which they had little temporary concern and no permanent interest.

There was a difference of opinion over the recommendation of the Congressional committee that one-tenth of the proceeds of the sale of western lands be used for road making, because that money had already been appropriated for the payment of the public debt, and because it was only

a local affair which would benefit Pennsylvania and Virginia. Others took the larger view of the advisability of connecting east and west, and that the expenditure would for this reason be for the benefit of the whole country.

The opposition to the report of the select committee was without effect and a bill embodying its recommendations was put upon its passage. When the bill was brought up for debate, April 7, 1802, Fearing tried again to get it amended so that it would include the people of the eastern division. Those who supported the amendment held that under the articles of the Ordinance, Congress had the right of forming the eastern division into States, but no right to make a State of one part and leave the rest on a Territorial basis, and that the rights of all the inhabitants of the eastern division were equal.

In opposition to this position it was claimed that Congress had the right under the compact to form the Territory into one, two, or three States, and that this right involved a discretion to deduct a part of that division at one time, and another part at a subsequent period. Fearing's amendment was lost.

By an act of Congress. April 30, 1802, a convention of the eastern section of the Territory was authorized to meet in November to decide whether it was best to establish a State government. The first Enabling Act passed by Congress was the model for many successive ones. Under it the people in the Territory were allowed to form a constitution and State government, and to give the new State any name they might think proper.

In this act the boundaries of the proposed State were given. It was to include the land bounded on the east by the Pennsylvania line, south by Ohio River to the mouth of the Great Miami, north from that point to Lake Erie or the territorial line, and thence through the Lake to the point of starting on the Pennsylvania line. It was provided that the land north of this new State and formerly included in the Territory should be made a part of Indiana Territory,

subject to the disposal of Congress. The legal voters of the district thus bounded were directed to choose representatives to form a convention made up of representatives of the different counties in the proportion of one representative to twelve hundred inhabitants. These delegates were to meet at Chillicothe on the first Monday in November, 1802, to decide by a majority vote whether it was expedient to form a State constitution and government at that time. If thought best, the convention could form such a government and constitution, or provide for the election of representatives to do it; but the constitution and government must not be repugnant to the Ordinance of 1787. Until the next general census the State was to have one representative in the House of Representatives.

The following propositions were offered, which, if accepted, should be obligatory on the United States:

First. "That section number sixteen in each township or other lands equivalent thereto shall be granted to the township for the use of schools."

Secondly. "That the six mile reservation, including the Salt Springs near the Muskingum River and in the military tract, with the section of land which includes the same, shall be granted to the said State for the use of the people thereof, the same to be used under such terms and conditions and regulations as the legislature of the said State shall direct; *Provided*, the said legislature shall never sell nor lease the same for a longer period than ten years."

Thirdly. "That one-twentieth of the net proceeds of the lands lying within the State sold by Congress after June thirtieth next, shall be used for laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said state, and through the same."

These propositions were made to the State, "on the conditions that the Convention of the State shall provide, by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by Congress,

from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for state, county, township or for any other purpose whatever, for the term of five years from and after the day of sale."

The election of delegates to the convention was carried on with much feeling on both sides. It was a question of the endorsement or rejection of the administration of St. Clair. The Enabling Act did not meet with very hearty acceptance. Many felt that the offer made by Congress on condition of the remission of taxes on the sale of government lands for five years was very inadequate. The exclusion of Michigan and its inclusion in Indiana Territory was another feature of the Act which met with little favor and was regarded as an illegal exercise of Congressional authority.

The convention met November 1, 1802, and it was voted by a large majority to form a constitution and State government. St. Clair asked the privilege of addressing the convention, which was granted him, though very grudgingly. The speech was a denunciation of the interference of Congress and was anything but conciliatory in its effect. The division by which the northern part of the Territory was lost to Ohio was referred to in this opening speech in vigorous language. The five thousand people who had been thus thrown back into the first stage of territorial government had been bartered away like sheep. The conditions suggested by Congress did not meet with his approval. He seemed to regard it as a trick by which Congress would gain much and give Ohio very little in return. The gift of section sixteen in each township meant nothing because it had already been given for the use of schools just as thoroughly as Congress could do it. The gift of the Salt Springs to the State would be no gain to the people, because they had been worked for years and nothing had been paid for the privilege of working them. If this privilege should be leased it would mean dearer salt, so that the gift to the

General James Wilkinson. *From the original by Jarus, in the collection of Colonel Derritt, of Louisville.*

State would be an injury instead of a benefit. The third proposition was a mere illusion. The money for making the roads would be in the hands of Congress and the people of Ohio would have very little to say about the way in which it should be spent. The conditions were an insult to the people of Ohio. It would make the expense of government very heavy for the people and the tax would fall unequally.

As a result of this speech, on November 22d the President dismissed St. Clair from office in this letter:

"The President observing in an address lately delivered by you to the convention held at Chillicothe, an intemperance and indecorum of language toward the Legislature of the United States, and a disorganizing spirit and tendency of very evil example, and grossly violating the rules of conduct enjoined by your public station, determines that your commission as governor of the Northwestern Territory shall cease on the receipt of this notification."

Charles W. Byrd, secretary of the Territory, was placed in charge of the office until a successor should be appointed. This summary dismissal of a man who had spent a long and useful life in the public service, is one indication of the extreme bitterness of the partisan spirit of the time. St. Clair might have been spared the disgrace of this expulsion without any harm to his country. His term of office was at the time within a few weeks of its close. His dismissal ended his public career. No doubt he was headstrong and obstinate, but he was never dishonest. What he did seemed to him for the best interests of his country. He had many excellent qualities and tried honestly to rule well. But it was a task of immense difficulty. He was better fitted for military rule than civil, and his military work in the northwest is principally known for his disastrous defeat by the Indians. His work as a civil ruler was better in the earlier period when he ruled with his council than later when he tried to work in harmony with the legislative body. He was inflexible in his methods and opinions

and met a legislative body equally determined to have its own way. Much of the unhappiness of his later years as governor of the Territory was, however, due to the increased bitterness of the conflict between Federalists and Republicans.

After his dismissal he returned to his home near Ligonier, Pennsylvania, and there spent the remaining years of his life in poverty, due to the ingratitude of the republic which he had served so faithfully. The man who had given himself so completely to the patriotic cause, who stood so near Washington in the trying days of the Revolution, was allowed to pass his declining years in a log cabin, making his living by keeping a little country store. In August, 1818, he was driving to one of the neighboring villages to purchase supplies, when his wagon was upset and he was thrown violently to the ground. He was found in an insensible condition and was carried to his home, where he died on August 31st. His age was eighty-four years, and he retained to the last a dignity and courtesy which impressed all who saw him. There is hardly a more striking instance in our history of great service rewarded by utter neglect.

The new constitution, adopted by this convention, was a peculiar one in the fact that the governor was little more than a figurehead. The people had become weary of what they considered the autocratic and aristocratic methods of "Arthur the First," and so limited the power of the governor that the position was largely an honorary one. He had no veto and this feature still remains a part of the Ohio constitution. The overshadowing branch of the government was the legislative, because the power of appointment was with that branch rather than in the hands of the executive. The question of suffrage was considered in Article 4, which as it was finally passed restricted the right of voting to white male inhabitants. The convention voted nineteen to fifteen, on November 22d, to add these words: "provided that all male negroes and mulattoes now residing in the territory shall be entitled to the right of suffrage, if they shall

within a twelve month make a record of their citizenship." This provision, giving the right of suffrage to negroes and mulattoes, was stricken out a few days later.

Section 2, of Article 8, prohibited slavery in any form, but there was strong opposition to this, and an effort was made to introduce a modified slavery by which male slaves could be held until they were thirty-five, and females until they were twenty-eight years old. This provision for the admission of slavery was strongly urged by those who thought that its exclusion operated against the true interests of the State. Cutler was on the committee to which the eighth article was committed for consideration. In the debate he dwelt with energy on the principle that the Ordinance of 1787 was strictly a compact, and the convention was either bound to pass the section prohibiting slavery or leave the matter as it was, in which case the Ordinance would be the law. One curious argument seriously advanced was that this advance of modified slavery over a larger area tended to destroy the institution.

The proposition that the state should not tax any land sold by the government until the land had been in the possession of the settlers for five years was looked upon with special disfavor. This would mean that new settlers would be exempt from bearing their share of the burden of taxation.

There is much uncertainty about the date of the admission of Ohio to the Union. The dates given vary from April 28, 1802, to March 3, 1803, due to the fact that the act or resolution of admission which we find in other cases is lacking in the case of Ohio. Congress passed no act explicitly declaring its admission. The one coming nearest to it is "An act to provide for the due execution of the laws of the United States within the State of Ohio." The facts in the case are these: April 30, 1802, Congress passed "An act to enable the people of the eastern division of the Territory Northwest of Ohio River to form a constitution and state government, and for the admission of such State into the Union on an equal footing with the original States."

This was followed in the same year by the constitutional convention which was in session through nearly all of November, finishing its work on the 29th of that month. This latter date may be the date of admission, but if it was, the precedent established by Congress in the case of Tennessee, was not followed, because Tennessee was not admitted upon the adoption of the constitution by the State, but only after the action of the State had been ratified by Congress. There was also a provision in the Enabling Act which allowed a State to be formed provided the government was to be Republican, and not repugnant to the Ordinance of July 13, 1787. Naturally, the body making this provision would be the one to decide whether the conditions had been fulfilled or not. The constitution was laid before Congress and the matter referred to a committee, which, on January 19th, reported the action of the Ohio convention, and that the constitution so formed, agreed with the conditions laid down by Congress. The committee concluded the report with the words: "It is now necessary to establish a district court within the said State, to carry into complete effect the laws of the United States within the same." February 19th an act embodying the conclusions of the committee received the signature of the president. This was the first recognition of the new State. It proceeded on the supposition that the State was a member of the Union from the fact of its compliance with the conditions laid down by Congress, though it had never been formally admitted.

Ohio was greatly troubled by boundary disputes, and this Enabling Act which cut off Michigan from Ohio was the innocent cause of one of the most serious of them. The northern boundary was to be an east and west line drawn through the southerly extremity of Lake Michigan. This northern line was taken from the Ordinance of 1787, which provided that three States might be made of the Territory unless Congress exercised the privilege of making five States. In the latter case, the two additional States were to be made

in that part of the territory north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. But the southern end of Lake Michigan was an utterly unknown region in 1787. The map which was depended upon for making the division of territory was Mitchell's map of 1755. On this the southern end of the lake was placed at forty-two degrees twenty minutes north latitude. Much of the trouble would have been avoided had the more acccurate map made by Hutchins in 1778 been used. While the convention which formed the Constitution of Ohio was in progress, it received information about the location of the southern point of Lake Michigan which caused some hesitation. The northern boundary as defined by Congress was accepted, with the proviso that, in case the line should be found not to intersect Lake Erie, or to intersect it east of the mouth of Maumee River, then, with the consent of Congress, the boundary should be a straight line running from the southerly extreme of the lake to the most northerly cape of Maumee Bay, from its intersection with the Miami meridian to the international boundary line. The boundary question was also complicated by the fact that this proviso was never rejected or ratified by Congress. Here was the material for a quarrel, which was sure to come as soon as the section in controversy was settled. Ohio saw the possible trouble and attempted to obtain a decision from Congress, but secured no action until 1812, when a committee was appointed to examine the matter. In 1817 a line was run giving the northern limit of Ohio as defined in its constitution. Lewis Cass, Governor of Michigan, had another one run, giving the boundary claimed by Michigan Territory. From the names of the surveyors, these lines are known respectively as the Harris line and the Fulton line. After the War of 1812, the country began to be settled and the inhabitants were anxious to know whether they were in Michigan Territory or in Ohio, but for years Congress delayed giving any definite answer. The northern range of townships, including

the city of Toledo, was in dispute. The territory was in possession of Michigan in reality, and the Ohio State officials could not interfere. Michigan organized townships and built roads.

But matters came to a crisis over the question of the canal which was to join Miami and Maumee Rivers. Toledo was a rapidly growing village in the disputed territory, and it could gain more advantage from the canal if it was in Ohio. In 1835, Governor Lucas brought the matter before the legislature of Ohio in a special message, and the legislature extended the boundary to the Harris line, and divided the land in controversy into townships. When Mason, Governor of Michigan, learned of the message of Lucas, he prepared for trouble. He ordered out the militia, and, with a force of about a thousand men, encamped in Toledo prepared to resist any invasion of what he considered was Michigan Territory. General Bell and six hundred of the Ohio militia were present to sustain the claims of their State. The two parties were greatly excited and there was a prospect of bloodshed, but the contest was finally settled because of political conditions in Washington. President Jackson did not know what to do, but he knew that an election was approaching and that Illinois and Indiana were interested in the dispute and favored Ohio. He sent commissioners to bring about peace in the district in contention. Congress, in June, 1836, gave the decision of the question to Ohio and admitted Michigan on condition that she accept the decision, but as compensation gave Michigan the lands, later to be so immensely valuable, in the upper peninsula.

CHAPTER XI

SPANISH LOUISIANA AND THE WEST

WHEN the British were victorious on the Plains of Abraham in 1759, the French power in North America came to an end. By the Treaty of Paris, in 1763, France surrendered to Great Britain all her lands east of the Mississippi, excepting the Isle of Orleans at the mouth of the river. In the preceding November, by the Treaty of Peace between France and Spain, the latter country had acquired all the land known by the name of Louisiana, including New Orleans and the island upon which the city stood. In the war, Spain had been an ally of France. During hostilities Havanna had been captured by the British. Havanna was of immense importance to Spain and to regain it, she surrendered Florida to Great Britain and received as compensation from France all the latter's possessions in North America which did not pass to England. The result was that at the outbreak of the Revolution, the North American continent was divided between Spain and Great Britain, with the Mississippi, for nearly its whole length as the boundary line. With the Treaty of Peace, the boundaries of the United States were, naturally, those of the lands won from Great Britain, and the rights in the navigation of the Mississippi, which had belonged to Great Britain by treaty also passed. The treaty of 1763 had guaranteed to the subjects of France and Great Britain the right to free navigation of the Mississippi, in its whole

breadth and length from its source to the sea. Spain objected to a transfer of this right, claiming that it could not be transferred. The reasons why Spain thus turned against her former ally are not difficult to understand. There were already evidences of the future growth of these struggling colonies in the Mississippi Valley; even during the Revolution the emigrants had been coming into the western lands by thousands, and it was evident that the movement would be kept up. These enterprising colonists might prove very troublesome neighbors. It would be better to have the British as neighbors, because they could keep their former colonists in check. It would be still better if there could be a neutral zone, inhabited only by Indians. If the Americans were allowed to come to the Mississippi, they might some day, when their own lands were filled up, look with greedy eyes to the equally fertile lands across the river. One way of stopping their growth was by shutting them out from access to the river. If they could not use that as a way by which their surplus products could be carried to market, then the settlement of the western lands would be very slow and much of the danger would be removed. Undoubtedly there were dreams of a great empire when the gain in America might make up for what Spain had lost in the old world, when the Gulf of Mexico would again be a closed sea under the control of Spain, and the rivers flowing into it open only to those who paid tribute to Spain.

Spain claimed that the United States should extend no farther west than they were allowed to do by the proclamation of 1763, that they should have no territory on Mississippi River and therefore no right to navigate it, and that lands east of the river in which settlements were prohibited should be retained by the British. Even before the signing of the Treaty of Peace, by which the United States obtained all the rights of Great Britain in the Mississippi, there was strong opposition in the south and southwest to the claims of Spain. Settlements had been already made on the Western Waters, and the importance of the right

to navigate the river became evident to settler and statesman alike. The natural outlet for the Central States was Mississippi River.

Spain sought in various ways to prevent Americans from living on the lands which she regarded as her own. Many of the massacres among the backwoodsmen were instigated by Spaniards, who furnished the Indians with arms. Perhaps there may have been a hope that, with the help of the Indians, Spain's territory might be extended as far north as Ohio River. But while this warfare was distressing, the outcome was never in doubt. The whites were rapidly filling up the western country, and Indian wars were soon to end in the expulsion or extermination of the aborigines. When the Revolution closed and Spain saw the new nation changed from an ally into a rival by the generous terms granted by Great Britain, she withdrew the privilege of trade and free navigation along the lower Mississippi which had been previously granted. This would have made little difference if the Americans along the bank and branches of the river had been content to remain hunters and trappers, but many of the settlers had become farmers with grain and other bulky commodities to sell, and these could not be carried profitably over the mountains, but with great profit could be floated down the river and exported from New Orleans. The Americans claimed the right to do this by the treaty, but Spain quickly asserted that the boundaries between the United States and Louisiana and the Floridas had not been rightly stated in the treaty, and until they were accurately defined, she would assert her claim to the exclusive control of Mississippi River, and she proposed to exclude boats belonging to the United States from the river while it was under her control. This determination on the part of Spain aroused different feelings in the minds of the Americans according to their geographical location. To the New Englander, especially if he was jealous of the growing strength of these distant settlements, it was not a matter of much importance either way, certainly not enough

to fight about; there was so much land nearer home; this might be a matter of moment in a century or two, but at present there were more important affairs that needed attention. But to the settler just beginning to cultivate his fields on the banks of the Kentucky or the Tennessee it was a matter of vast and immediate concern. If he could not get the right to the ocean in any other way, he would be glad to fight for it. But the right he must have in some way. While affairs were in this condition, the representative of the Spanish court arrived at Philadelphia in the spring of 1783, with a commission to settle the Mississippi matter and negotiate a commercial treaty with America.

Don Diego de Gardoqui was appointed *encargado de negocios* by the King of Spain with full power to come to some understanding about the disputed navigation of the Mississippi and to settle the question of the boundary between the two nations. Congress appointed John Jay, secretary of foreign affairs, to treat with him. The authorization was later modified so that Mr. Jay was bound to hold to the territorial bounds of the United States and the free navigation of the Mississippi from the source to the ocean as established in the treaties with Great Britain. Jay had no power to conclude any treaty until he had submitted it to Congress and gained the approval of that body. Jay and Gardoqui were unable to come to any conclusion. The Spanish negotiator would not yield to Jay's contention that the United States had a right to the navigation of the Mississippi. Gardoqui held firmly to the position that the Spanish king would not allow any nation to navigate between the two banks belonging to his majesty. He further represented to Congress the importance of peace and good understanding with Spain because the Algerian pirates were in close alliance with Spain, and if the friendly Spanish influence were to be withdrawn the results might be disastrous to American commerce in the Mediterranean. And he added that it was also important for the United States to be on good terms with Spain because Spain was such a large

consumer of American goods and that a very favorable commercial treaty could be made with Spain if these boundary questions could be satisfactorily settled.

The arguments between the commissioners were many, Jay contending that the country which bounded on the river was rapidly filling up and that the time would soon come when the people could not be restrained from using the Mississippi and that it was the duty of the present commissioners to make such a treaty that future difficulties would be avoided. Gardoqui replied that treaty making was for the present, not for the far-distant future, and it would be a long time before the country in dispute would be well populated. Jay finally concluded that the best that could be done under the circumstances was for the United States to agree to a treaty limited to twenty-five or thirty years, and that one of its articles should stipulate that the United States would forbear to use the navigation of that river below their territory to the ocean. Jay had no thought of the final surrender of the river from the source to the mouth. But he did not realize how rapidly the nation would grow toward the west in twenty-five years, and decided that the right of navigation during that period was not a matter of sufficient importance to prevent the United States from obtaining the value of the promised commercial treaty. This also seemed a wise conclusion, in Jay's opinion, because of the circumstances in which the United States were placed. The only way in which they could at present get the right of navigating the Mississippi from Spain was by going to war about it, and the States were not prepared to go to war with any power; and in the present instance some of the States, regarding the matter of as little importance, were unwilling to prepare to do so.

Perhaps the attitude of Jay's intimate friend, Gouveneur Morris, may be taken to fairly represent that of the average man of the north and east. He wrote Jay that it was absurd to quarrel about a country inhabited only by red men and to claim "a territory we cannot occupy and a

navigation we cannot enjoy." A few of our statesmen, like Washington and Hamilton, said that it was the destiny of the nation to spread at least to the Mississippi. But there were many of them who took a narrow view and underestimated the value of the western lands. Morris went so far as to say that if these lands between the Alleghanies and the Mississippi were ever settled, it would be by people of whom not one in a hundred would be American and it would immediately become an independent and rival nation.

On August 3, 1786, Jay made an oral report to Congress showing the difficulty which he encountered in his negotiations with Gardoqui. Jay reduced his speech to writing and it was inserted in the minutes. He saw the importance of a treaty with Spain, believing that it was more important than any that could be made with any other nation; this because of its influence on the future welfare of the United States. He acknowledged that Spain had great influence in France, Portugal, and the Barbary States, so that our relations with these powers would be greatly influenced by our connection with Spain; that Spain was ready to give to the United States commercial privileges so favorable that the latter would gain much by a treaty and lose nothing. But even in view of these facts Jay was unwilling to yield to Spain either in the matter of the navigation of the Mississippi or that of territorial limits.

When Jay's report was considered in Congress a very sharp division between the north and south appeared. The northern and central States were interested in a commercial treaty with Spain, but cared little about the immediate navigation of the Mississippi, while the representatives of the southern States took the opposite view. The northern men were willing to agree to Jay's proposed restriction, but Pinckney, of South Carolina, moved that the commission of Jay to negotiate the treaty be revoked. This was lost by a vote in which Pennsylvania and the States to the north voted against the revocation, while the States to the south showed their dissatisfaction with Jay and the

possibility of the surrender of the navigation of the Mississippi by voting for his dismissal. The vote of Georgia was divided. The basis of this opposition on the part of the southern members was the little gain which would come to the States as a whole through the commercial treaty, which in reality gave them few privileges which they did not at present enjoy. The southern members showed a firmer grasp of the situation than Jay did. They opposed this surrender because it would be the surrender of a right which the nation already possessed, and, independent of the question of right, the surrender was not expedient. The confederation held the States so loosely together that the wise policy would be to pursue a course which should not alienate any of the States but bring them closer together; but this surrender would not tend to strengthen the Union. The western lands were looked upon as a fund for the discharge of the public debt, but the surrender of the right of navigating the Mississippi would greatly decrease the value of these lands. It was in spirit a violation of the contract with Virginia by which this western territory was to have all the privileges of the older States, as this concession to Spain would tend to fix the population east of the mountains. As a way of settling the difficulty it was proposed that New Orleans be made an entrepôt for the reception of the bona fide productions of the United States brought down the Mississippi by the citizens of the States, and that they be exported thence on payment of certain duties. This motion was lost by a sectional vote.

The negotiations were long drawn out, but no agreement was reached until changed conditions in Europe made Spain more willing to listen to the demands of the United States.

How little hold the Union had upon the north and south alike became evident in the spirited discussions which followed Jay's proposals. Indignation meetings were held in Kentucky and the people threatened to fit out expeditions against Natchez and New Orleans to avenge the insults and injuries inflicted upon them by Spanish officials, and

more than that there were threats that secession would follow the acceptance of Jay's proposal. The New Englanders could not understand why there should be so much commotion over an affair so unimportant as the navigation of the Mississippi, and there were some who declared that if Jay's suggestion failed of acceptance it would be best for the New England States to separate from the Union.

While negotiations were in progress and the Spanish government was insisting that the Mississippi must remain a Spanish river, the impatient backwoodsmen were using the river for floating their goods down to Natchez or New Orleans regardless of treaties or prohibitions. Heavy transit and port duties had to be paid to the Spanish authorities on articles descending the river from the western settlements. There was no fixed tax, it varied from time to time according to the will of the intendant or the order of the king; it often amounted to a quarter of the value of the goods and at other times to much more. Military posts were stationed at various points along the river. These compelled passing boats to land and submit to examination. Sometimes, navigators were forced to unload their cargoes if the Spanish officials suspected that any part was being concealed. After the duty was paid the boat was required to land at every post and exhibit its papers showing that the cargo was free from further tax. Any boat refusing to do this might be fired upon by the Spanish soldiers, and confiscation was liable to take place at any time. The dangers of the voyage were great, but if the venture was successful, the profits were large. The Spanish officials at New Orleans were not above bribery and favored individuals among the westerners made large gains. There was no uniform policy concerning the navigation of the river by Americans. In 1783 the traders were able to go to New Orleans, but in 1784 they could not. The next year the river was open again for a little time and then closed. Creoles and Americans were frequently imprisoned for violation of navigation ordinances.

The case of Thomas Amis may be given as an example of many. He was a bold and lawless North Carolinian, who believed that there was money enough in the trade with Louisiana to pay for the risk involved. He started down the Ohio with a boat load of merchandise, principally flour. He floated down to Natchez and was there stopped by Spanish soldiers, his goods taken ashore and confiscated. He was liberated and compelled to go back to the Ohio through the wilderness, but he visited the scattered settlements and aroused resentment everywhere against the Spaniards with his story of their brutal treatment of him. The settlers were ready to sympathize with him and their hatred of Spain was increased. In the minds of many of the backwoodsmen there was a feeling that if they could not get satisfaction through the national government, it would be just for them to take matters into their own hands. One man who believed this was George Rogers Clark, now reduced by his excesses to a shadow of the hardy, courageous leader who saved the Northwest Territory to the United States. He had been in charge of an expedition against the Wabash Indians in 1786, which had proven to be very unsuccessful. The men mutinied and returned home, but some were kept as a garrison at Vincennes. These men, unpaid and with little organization, plundered the French inhabitants. Among the settlers were prosperous Spanish traders. One of these kept a store and by the orders of Clark, he was robbed and the goods used by Clark in paying his soldiers. They informed the Spaniards that if Americans could not trade down the river, the Spaniards could not trade up it.

This lawless act of Clark and his soldiers was approved by many of the frontiersmen. Some of them were ready to join in an expedition to drive the Spaniards out of the towns down the river. The negotiations of Jay and the apparent willingness of the Continental Congress to submit to the closing of the Mississippi for a term of years greatly enraged them. They rightly believed that the eastern and

northern men did not understand the importance of the Mississippi to the growth of the West; they looked upon the proposition as an attempt to sacrifice one part of the country to the commercial welfare of another section. The truth was bad enough, but in their excited frame of mind they were willing to believe all sorts of exaggerated rumors which came to them; they thought that the east would be willing to sacrifice them entirely if it was for its interest to do so. As a result of Spanish interference, the unwillingness of Congress to aid them, and their own exaggerated views, threats were freely made that the West would separate from the Union, to form an independent nation of their own, or, perhaps, to go back to Great Britain, for that nation was ready to receive them.

Meanwhile, Spain was making efforts to solve the Mississippi question in a way which would be for her own satisfaction. It was evident that the six years of the Confederacy had not made a strong nation of the Thirteen States, and with the fear of a strong government which many entertained, with the intense dissatisfaction of the West because of the weakness and irresolution of the national government, with the example of the State of Franklin before the other western communities, and, more important than all else, with the increasing numbers of those who desired to navigate the Mississippi, there seemed a strong possibility that Spain might get by intrigue what she was not able to secure by force or diplomacy, and, by using this dissatisfaction in the West, gain these growing over-mountain States for herself, thus strengthening her own power while weakening her hated rival. It would first be necessary to reconcile some of the western leaders; this could best be done by an appeal to their desire for moneymaking. It is at this point that James Wilkinson appears.

Wilkinson was a man who had great influence in the West, and whose ruling motive seems to have been the desire to make money. He had served in the Revolution, and was skilful in managing other men. Roosevelt compares

Thomas Jefferson.

After the painting by Thomas Sully, in possession of the American Philosophical Society, Philadelphia.

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him to Benedict Arnold, but he lacked Arnold's ability. At the close of the Revolution, Wilkinson left Maryland, with his family, and settled in Lexington, Kentucky. He identified himself with the party which sought separation from Virginia, and soon became the leader of the more energetic separatists. He was prominent in the convention of August, 1785, which demanded that Virginia allow separation to Kentucky. In that convention he was in favor of violent and immediate action, but the wiser, more conservative party prevailed. He was a speculator in skins and salt, and the Spanish veto on the navigation of the river interfered seriously with his financial operations. As his trading efforts were not successful, he resolved, as so many of the pioneers had done before him, upon a venture into Louisiana. But his venture was something more than the ordinary effort to bribe or outwit the Spanish officials. In his memoirs, he states that his object was to promote his own fortune and benefit his fellow citizens by awakening the Spanish government of Louisiana to a just sense of its interests, and thereby to effect the commercial intercourse which was indispensable to the prosperity of the western country. He embarked on Kentucky River in April, 1787, with his flatboats loaded with flour, butter, bacon, and tobacco, and reached New Orleans on July 2d. For some reason, Wilkinson had no trouble with the Spanish governor, Miro. It may have been because of Wilkinson's influence and position in Kentucky, and the fear that any ill-treatment given him might react against Spanish influence there. He was permitted to sell his cargo, and then, in a long interview with the governor, told him of the conditions in Kentucky. While at New Orleans, he took the oath of allegiance to Spain. This was not known as a certainty by the Kentuckians of his day, but it was strongly suspected. Documents recently brought to light in the Spanish archives have settled the fact beyond question. His first trading voyage was a success, financially. He is said to have made a fortune by this single expedition, and obtained permission for further

trading. He returned to Kentucky by way of Philadelphia. His ventures increased in magnitude, and he became a commission merchant, because of the exclusive privileges which he enjoyed at New Orleans. But citizenship and plans to make money by trading on the river were not the main objects of Wilkinson's journey to New Orleans. Other men had bribed Spanish officials before his time. His peculiar work was the intrigue into which he entered, by which he was given special privileges and money on condition that he use his influence to bring the western country under Spanish control. In the proposal which he laid before Miro, the Governor of Louisiana, and Navarro, the Spanish intendant, he tried to show them the necessity of making terms with the Kentuckians. If Spain drove the Americans on the Western Waters into the arms of Great Britain, she would endanger her Louisiana possessions; but if she attached them to her interests, she would raise an effective barrier against Great Britain and the United States. In order to accomplish this, Gardoqui must refuse to concede the navigation of the Mississippi to the United States, because the western settlements were sure to be subordinate to the power securing them the coveted privileges. To secure the Kentuckians, however, Wilkinson advised the Spanish authorities to relax the trading regulations in some instances,—especially to men of real influence,—so that, with these men gained, the winning of Kentucky from allegiance to the United States would be easy.

Wilkinson promised to be ready to give his assistance at any time and was persuaded that the negotiations could be so conducted as to secure to Spain every advantage she could wish from the connection without involving her in war with the United States. He then explained the proper policy for Spain to pursue. Emigration into Louisiana should be encouraged; churches should be built for the newcomers and every form of worship but the Catholic suppressed. He then gave the reason for his visit. He had come on the urgent advice of many of the leading

citizens of Kentucky to open negotiations for the alliance of that State with Spain. The people of Kentucky, he said, were on the point of organizing an independent government, and as soon as they did that, they would make formal application to the court of Spain for alliance. Wilkinson would take pleasure in furthering this desirable end for such compensation as his services would seem to merit. In order to do this he would have a trusty correspondent at Washington who would keep him informed on all that took place there which might be of interest in this matter, and who would also transmit by frequent messengers to the governor of Louisiana anything which concerned the progress of the plan in Kentucky. But while thus laboring for the aggrandizement of Spain, he wished to provide for his own family, and so made certain propositions concerning trade. These privileges were granted in part and he continued his career as a trader. This venture by which he opened the river to the settlers made him very popular. He was looked upon as one who had accomplished what the Federal government was unable or unwilling to do for the West. Wilkinson became a pensioner of Spain and used every effort to dismember the Union. He accepted sums of money from Spain, ostensibly with the object of winning over leading Kentuckians to the Spanish side. He worked hard to accomplish the purpose to which he was pledged, but after a time it became evident that hatred of Spanish rule in Kentucky was so great that all he could accomplish would be separation from the United States and an alliance with Spain. Wilkinson never avowed his real object, knowing that if the extent of his intrigue should be known and divulged, it would "destroy his fame and fortune forever."

Wilkinson was not alone in his correspondence with the Spanish authorities, though probably no one of the frontiersmen except Sebastian went so far that his work could be considered legally treasonable. Men who were already famous for the work which they had accomplished for the

West, like Clark and Robertson, and others who were to be of great use in the future of the new commonwealth, like Henry Innes and John Brown, were in correspondence with the Spanish authorities.

John Sevier, after the collapse of Franklin, turned to the Spaniards for help when he was driven out by North Carolina with a charge of high treason against him. He wrote Gardoqui that the people of Franklin were ready for a commercial alliance with Spain and asked of him money for military aid, but nothing ever came of this plan.

At the same time Robertson wrote to the Creek chief, McGillivray, in a way which showed that he had no faith in the stability of the Union. He believed that the western States would soon join some foreign power, British or Spanish, which would furnish the West with trade and receive its produce.

The news of Jay's proposed plan of ceding the navigation of the Mississippi to the Spanish for a term of years produced consternation and indignation in the West. A circular letter was issued, signed by George Muter, Henry Innes, John Brown, and Benjamin Sebastian, dated March 29, 1787. This letter was addressed to the "Inhabitants of the Western Waters," calling upon them to elect delegates, who should meet and send a remonstrance to Congress against the proposed cession. Attention was called to the glaring injustice of the cession, which would result in an almost total destruction of the western country. The remonstrants wished to show Congress that the people of the Western Waters were united in opposition and considered themselves entitled to all the privileges of freemen. They would not tamely submit to an act which would deprive them of their just rights and privileges.

The opinion of the southern and western people on the proposed treaty was expressed by the action of the Virginia House of Delegates November 29, 1786. After claiming the navigation of the river as a natural right, they gave their opinion of the proposed treaty by resolving: "That every

attempt in Congress or elsewhere to barter away such right ought to be considered as subversive of justice, good faith, and the great foundation of moral rectitude, and particularly of the principles which gave birth to the late Revolution, as well as strongly repugnant to all confidence in the Federal government and destructive to its peace, safety, happiness, and duration."

Gardoqui, perceiving the unlikelihood of success for his plan of getting a treaty with the United States by which the lower Mississippi would be closed to the Americans, feared danger from the increasing number of Americans on the Western Waters, for he thought it might lead to an attempt to dislodge the Spaniards from their possession of the river. In order to counteract this, he, like Wilkinson, favored a plan of colonization. By this he hoped to build up strong colonies on the southern courses of the river, which should enrich Spain and at the same time prove a barrier against the western settlers. He entered into negotiations with Colonel George Morgan to found such a colony. Morgan was to have an immense grant of land on the west bank of the Mississippi extending west through two degrees of longitude and along the river from Cap Cinque Hommes to the mouth of the St. Francis. In this territory he was to found the town of New Madrid, the colonists of which were to be obliged to swear allegiance to the King of Spain. They were to have toleration in religion, a right of unrestricted commerce, and free navigation of the river. The promise was an alluring one. It would give to the Americans on the west bank the privilege which their eastern neighbors were refused and held out to them the prospect of prosperity. Gardoqui believed that great numbers would be attracted by such a colony. But the plan never succeeded because of the many obstacles encountered. Only a few frontier families settled at New Madrid.

Another colonization scheme was under the control of George Rogers Clark. He desired a grant of land on the west bank of the Mississippi, opposite the mouth of Ohio

River, on which he would plant colonists, giving to each a thousand acres of land. He complained bitterly of the way in which the Federal government had neglected him, and expressed a desire to settle under a strong government, because the United States Government was so weak that nothing was safe under it. This proposed colony never materialized.

The controversy between the United States and Spain was watched by Great Britain with great interest. The latter country would have been pleased to see her rebellious colonies involved in a war with Spain, or what seemed at one time probable, the separation of the nation into a northern and southern or an eastern and western confederacy. In either case it would have been easy for her to extend her own boundaries farther to the south. At one stage in the proceedings, the British thought that they saw in the unrest of the West an opportunity for detaching that part of the country from the seaboard States. Colonel John Connolly, a half-pay British officer, who had served under Lord Dunmore, went to Louisville ostensibly to look after some lands which he had at one time owned at the Falls of the Ohio; but in reality he was sent by the British to find out what prospect there might be of winning back the West to the northern country. Wilkinson suspected that he was bent on mischief and so invited him to his home where he obtained the full particulars of Connolly's plan, which was to assist the western settlers in their efforts to open the Mississippi by arming and paying a force of ten thousand men, who were to go to New Orleans, where a British fleet would meet and coöperate with them. He suggested a severance of the West from the Union and organization under British protection. He wished for military or commercial alliance with England. How far Connolly's influence extended it is impossible now to find out. It is quite probable that there were a few westerners who were willing to have a British protectorate. But as this would have interfered seriously with Wilkinson's plans, he convinced Connolly

of the impossibility of the success of his plan and got him out of the way by making him believe that his life was in danger because of the hatred of the frontiersmen toward the English. Connolly returned to Lord Dorchester and the British plan, which was never a serious matter, came to an end.

This continued intrigue, agitation, and irritation convinced the government that something must be done to settle the controversy with Spain, so Jefferson, through William Carmichael, American chargé d'affairs at Madrid, informed Spain that some agreement between the two countries must be reached. In 1791, Jefferson, then secretary of state, told the President that Spain was ready to negotiate concerning the navigation of the Mississippi. Washington appointed two commissioners, Carmichael and William Short, to carry on these negotiations. Jefferson drew up their instructions, informing them of the subjects of the negotiation between the United States and Spain. The first of these was the question of the boundary, the second, the navigation of the Mississippi, and the third, commerce. On the second of these subjects he based the right of the United States to participate in the navigation of the river where it flowed through Spanish territory on the Treaty of Paris, 1763, the Revolution Treaty of 1782–1783, and on the law of nature in nations. He laid especial emphasis upon the third of these, calling attention to the case of Antwerp and the Scheldt as a proof of the general union of sentiment on this principle. The right also belonged to the United States because the United States held six hundred thousand square miles of habitable territory on the Mississippi and its branches, with thousands of miles of navigable waters penetrating this territory in all its parts, while the lands of Spain bordering on the river were not the thousandth part of that extent. This right to the navigation of a river under international law includes a right to moor vessels to its shores or to land in case of distress. It also includes the right of safe deposit for the cargo in case a vessel should be damaged. Some

peculiarities in the case of the Mississippi made this use of the shores more necessary than with many rivers because sea-going vessels could not navigate the river nor river vessels the sea; so that without a place of deposit where vessels could leave their cargoes and take those left by others, the right to navigate the river would be deprived of much of its value. Jefferson instructed the commissioners that there were four absolutely essential conditions in the treaty.

"First, That our southern boundary remain established at the completion of thirty-one degrees of latitude on the Mississippi, and so on to the ocean, as has been before described, and our western one along the middle of the channel of the Mississippi, however that channel may vary, as it is constantly varying, and that Spain cease to occupy or to exercise jurisdiction in any part northward or eastward of these boundaries.

"Secondly, That our right be acknowledged of navigating the Mississippi, in its whole breadth and length, from its source to the sea, as established by the treaty of 1763.

"Thirdly, That neither the vessels, cargoes, nor the persons on board, be stopped, visited, or subjected to the payment of any duty whatsoever; or, if a visit must be permitted, that it be under such restrictions as to produce the least possible inconvenience. But it should be altogether avoided, if possible, as the parent of perpetual broils.

"Fourthly, That such conveniences be allowed us ashore, as may render our right of navigation practicable and under such regulations as may bona fide respect the preservation of peace and order alone, and may not have in object to embarrass our navigation, or raise a revenue on it. While the substance of this article is made a *sine qua non*, the modifications of it are left altogether to the direction and management of the commissioners."

The two commissioners met with the usual experience in attempting to negotiate with Spain. The Spanish commissioner was Gardoqui, who began by assuring them that

no consideration would ever induce his majesty to acknowledge that the United States had any right in the navigation of the Mississippi, thus occupying the same ground that he had held while negotiating with Jay in America.

The business was delayed because of political conditions in Europe, and because of the uncertainty of European political affairs the American commissioners considered it unwise to insist upon the four points which Jefferson considered essential, but Gardoqui still believed that the people of the West might be separated from the Union. The commissioners were not able to come to any conclusion with Gardoqui, and there was danger of a union between Spain and Great Britain, unfriendly to the American claims; so the effort to make a treaty was, for the time, given up. In 1794, as the way now seemed open for negotiation between Spain and the United States, Thomas Pinckney, minister at the Court of St. James, was ordered to Spain for the purpose. He entered into negotiations with the Duke of Alcudia, also known as the Prince of Peace, and after numerous delays, succeeded in arranging a treaty. The main points as far as they relate to the boundary question and navigation of the river were as follows:

"The southern boundary of the United States, which divides their territory from the Spanish colonies of east and west Florida, shall be designated by a line beginning on the river Mississippi at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be due east to the river Apalachicola, . . .

"If there should be any troops, garrisons, or settlements of either party in the territory of the other, according to the above mentioned boundaries, they shall be withdrawn from the said territory within the term of six months after the ratification of this treaty, or sooner if possible.

"One commissioner and one surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez on the left side of the river Mississippi before the six months from the ratification of this convention, and

they shall proceed to run and mark this boundary according to the stipulations.

"The navigation of the said (Mississippi) river, in its whole breadth from its source to the ocean, shall be free only to his (Catholic Majesty's) subjects and the citizens of the United States, unless he shall extend this privilege to the subjects of other powers by special convention.

"The two contracting parties shall maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the boundaries of the two Floridas. No treaty of alliance or other whatever (except treaties of peace) shall be made by either party with the Indians living within the boundary of the other."

To this was added the right to use New Orleans for three years as a port of deposit free from duty, on condition that a fair rent should be paid for the use of stores. This privilege was to be continued at New Orleans or some other point on the river. Each State was to discountenance Indian raids and restrain the Indians within its own borders. Thus Pinckney obtained what Jay found it impossible to get and what the latter was inclined to surrender.

This treaty, which was very acceptable in the United States, was in direct opposition to Spain's attitude since the conclusion of peace between the United States and Great Britain; the concessions in it were not made through any change of opinion, but because political circumstances forced Spain to it. At this time Spain was under the influence of France, having parted with Great Britain. Pinckney's opinion was that Spain feared an alliance between the United States and Great Britain against France and Spain.

Jay's treaty with Great Britain made it necessary for Spain to make one with the United States, for fear that the two English-speaking nations might combine and injure the colonial possessions of Spain. But Spain did not wish to carry out the stipulations of the treaty if it could possibly be avoided, and continued her old effort to detach the western States from the Union, using the rather specious argument

that if the western States were separated the treaty would be no longer binding, because it was made with the nation as a whole.

In 1797, Carondelet, the Spanish governor, through his interpreter, Thomas Power, approached Benjamin Sebastian, Judge of the Court of Appeals in Kentucky, with the proposition that the West withdraw from the Federal Union and form an independent western government. One hundred thousand dollars was to be devoted to this object by the Spanish king. This proposition was submitted to Judge Henry Innes by Sebastian, who in turn placed it before Colonel Nicholas, an influential citizen of Kentucky. Innes and Nicholas gave Power a written reply, in which they refused to coöperate. Power had an interview with Wilkinson, but the latter advised him to drop it, as it was too late to turn the West from its allegiance.

There were delays of various kinds in carrying out the provisions of the treaty, just as there had been in securing it. It was a time when Spain was coming more and more under the power of France. But in spite of the attempts of France to prevent it, the terms of the treaty were fully carried out with the delivering of the last of the Spanish forts on the eastern bank of the Mississippi in 1798.

For seven years after the signing of the treaty the river was open to the Americans, and the western country rapidly filled up. A prosperous trade was carried on, by which the Americans took their tobacco, grain, and other products down the river and deposited them in New Orleans, from which place they were reshipped to all parts of the world. But there was no desire to encourage settlers from the Union to come to Louisiana. The Spanish authorities were especially opposed to Protestant preachers, and none was allowed to settle anywhere within the limits of the province. The Catholic religion was a part of the government, and was supported to the exclusion of all others. Every immigrant was compelled at once to take an oath to support the Spanish government. But this restriction on immigration

was a comparatively small matter, so long as there was an abundance of land to the north. The important thing was the right of deposit; this had been granted for three years from the signing of the treaty, with the understanding that it would then be renewed or some other place on the Mississippi substituted for New Orleans.

CHAPTER XII

THE LOUISIANA PURCHASE

THE loss of Louisiana to France by its transfer to Spain in 1762 had always been regarded by the French nation as a disgraceful calamity. It would be sure to recover this territory at the first opportunity; that opportunity had now come. Napoleon was supreme in southern Europe, and dreams of a vast colonial empire came to him. No other place would answer so well for this as Louisiana, and none would be so pleasing to the French nation. There was good reason to believe that Great Britain was trying again to get a foothold in the Mississippi valley; and if France could get control of New Orleans, this would increase the power of France and shut out Great Britain.

Negotiations were carried on with the Spanish court. Berthier, the intimate friend of Napoleon, was sent to Madrid to negotiate a treaty in the fall of 1800. The provisions of the projected treaty, according to the instructions given to Berthier, were that the French republic should procure for the Duke of Parma, son-in-law of the Spanish king, a territory in Italy to contain at least a million inhabitants, Spain promising to give the colony of Louisiana, with the same extent it actually had in the hands of Spain. This was the Treaty of San Ildefonso. But this cession was kept secret, and it was especially necessary that the United States should know nothing about the change of ownership until Napoleon was in a position to take actual possession.

But the actual surrender of Louisiana to Napoleon was delayed, because of the failure of France to carry out her part of the bargain. The territory given the Spanish king in exchange for Louisiana was only nominally in his possession. There were still French soldiers in it, and it was administered by French generals. The Spanish king would not sign the treaty until the territory was actually surrendered.

Meanwhile a suspicion came to the Americans that Spain had transferred the country to France. It had been known before this time, even as early as 1790, that the project of establishing a French colony in America was under consideration in Paris, and that the most suitable place for it would be on Mississippi River. Early in 1800, there were rumors of a revival of this plan on the part of France, and instructions were sent to the American ministers in London, Paris, and Madrid to do what they could to prevent the cession. Much excitement was caused in the United States by the rumor, and warlike talk was common in the West.

A weak and decaying nation like Spain was not regarded by the people of the United States as a dangerous neighbor though it was sometimes an irritating one. With the constantly growing strength of the West and the large number of American settlements bordering on Louisiana or already within its bounds, the Spanish power in America was yearly becoming weaker. There were many who foresaw the time when the mouth of the Mississippi, and West Florida as well, would come into the hands of the United States either by purchase or by easy conquest, and the policy of the latter was one of waiting.

But it was quite a different matter to have France as a neighbor at a time when the First Consul was at the height of his power. No one knew what his plans might be, but it seemed that with a powerful French army at New Orleans, Napoleon would be in a position greatly to embarrass the Americans, especially in the West, and he might restore

the valley of the river to French control, or perhaps follow out the same career of conquest in the New World which he had in the Old.

We are able to look back now and see that these fears were groundless; that the French occupation, while it might have been irritating, would have only hindered for a time, but not have stopped, the growth of the nation toward the south and west. But the people of the West did not know how Napoleon's plans for colonial empire were to be shattered by the resistance of Toussaint L'Ouverture, nor were they able to look forward to Napoleon's Waterloo. His schemes of colonial conquest would have perished with his other world-embracing plans, when he failed to invade Great Britain. Even if he had made his colonial plans a source of annoyance to the Union, an alliance between Great Britain and the United States would have quickly brought him to terms, and after the loss of San Domingo he was too far from his base of supplies.

On November 21, 1801, Rufus King, American minister at London, wrote to Madison, secretary of state, confirming the rumor that France had obtained Louisiana from Spain; and that Napoleon proposed to occupy it with his army at the earliest possible moment, using San Domingo as a base of operations. In the spring of 1802 the fact of the sale was fully known and the people of the United States determined that the French occupation must be prevented. There were two parties, the Federalist, desiring to go to war with France, and the other, headed by President Jefferson, anxious to bring the control of the mouth of the Mississippi into the hands of the Union by peaceable means, if that were possible.

Jefferson's letter to Livingston, American minister to France, April 18, 1802, gives his view of the dangers which came to the United States because of this cession to France and the course to be followed by the United States:

"The cession of Louisiana and the Floridas by Spain to France works most sorely on the United States. . . .

It completely reverses all the political relations of the United States and will form a new epoch in our political course. Of all nations of any consideration, France is the one which has hitherto offered the fewest points on which we could have any conflict of right and the most points of a communion of interests. From these causes, we have ever looked to her as our natural friend, as one with which we never could have any occasion of difference. Her growth we viewed therefore as our own, her misfortune ours. There is on the globe one single spot, the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market, and from its fertility it will ere long yield more than one-half of our whole produce, and contain more than one-half of our inhabitants. France, placing herself at that door, assumes to us the attitude of defiance. . . . It is impossible that France and the United States can continue long friends, when they meet in so irritable a position. . . . The day that France takes possession of New Orleans fixes the sentence which is to restrain her forever within her low water mark. It seals the union of two nations, who, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation. We must turn all our attention to a maritime force, for which our resources place us on a very high ground, and having formed and connected together a power which may render reinforcement of the settlements here impossible to France, make the first cannon which shall be fired in Europe the signal for the tearing up any settlement she may have made, and for holding the two continents of America in sequestration for the common purposes of the United British and American nations."

The excitement was greatly increased and the hopes of a peaceful settlement decreased by the act of Morales, the Spanish civil officer in New Orleans, who, in October, 1802, withdrew the right of deposit which the Americans enjoyed

under the Treaty of 1795. The right had been conferred by that agreement for three years with the understanding that another place should be granted at the end of that time, if for any reason New Orleans should be given up. At the end of the period of three years nothing had been said or done to change it, and now, four years later, this right was withdrawn and no other place of deposit granted. If this withdrawal of the right of deposit were carried out, it meant the commercial stagnation of the West. The river flat boats could not make an ocean voyage, neither could the ocean-going vessels go up the river, so a place where each could deposit and exchange its cargo was absolutely essential. The West and South were indignant and demanded that a Federal force be sent to New Orleans to restore to them their rights. They saw in this act of Morales what would happen when the river was again under French control, if this was not indeed an act of the French government. But Jefferson did not want war and he was much disturbed lest these hot-headed westerners should take matters in their own hands and march on New Orleans. He believed that the matter could be settled by diplomacy and in this he was strongly supported by his party. The Federalists, now greatly decreased in power, opposed him but were voted down in their efforts to thwart his plans. As a result of many secret sessions of Congress the whole matter was referred to the President, with power to act in the premises, and he was provided with $2,000,000 to be used in the settlement of the problem. Jefferson's plan was to use this $2,000,000 in buying New Orleans and Florida, thus settling for all time the question of the control of the navigation of the river by coming into possession of its mouth. The man chosen to go to France to negotiate the treaty was James Monroe, who had served successfully in the Revolution and who was considered especially fitted for this position, as envoy to France, because of his former position as minister to that country. Monroe was a personal friend of Jefferson's and well acquainted with his

views. There were several reasons why a special envoy was sent. It gave an added importance to the negotiation and showed the French the seriousness with which Jefferson regarded the proposed transaction. Monroe was also a man in whom the western people had great confidence, and secret instructions could be better given by word of mouth than written to the minister of the United States at Paris.

These instructions were substantially that the American representatives were to buy New Orleans, if they could reasonably do so, and rather than lose the opportunity they were authorized to spend $2,000,000. If they could not get any land from France, they were to obtain, if possible, the right of deposit, such as had been guaranteed to the Union by the treaty of 1795. If neither of these privileges were to be obtained, they were to be guided by later instructions. They were to guarantee to France the west bank of the river, if they should find this necessary. These were certainly very mild conditions and showed how little value Jefferson placed upon the western bank of the river. He did not see, as his far-sighted contemporary, Hamilton, did, that the acquisition of Louisiana was a necessity for the future welfare of the Union.

The minister to France at that time was Robert R. Livingston and he had been using every effort to come to some understanding on the Louisiana question. He placed before the First Consul, by means of Talleyrand, the reasons why Louisiana, or at least that part of it south of latitude thirty-one from the Mississippi to the Perdido, and that part of it west of the Mississippi and north of Arkansas River should be sold, so that the United States would secure the mouths of the rivers flowing from her territory to the Gulf of Mexico. He showed how easily Louisiana might be invaded by Great Britain in the war which seemed on the point of breaking out between the two nations. He believed that it would be for the interests of France to cede what the United States desired, so as to place a barrier between Great Britain and the French possessions. He appealed to the

old friendship between the United States and France, still strong, but sure to be weakened by the course which France was following. But he made little headway in his negotiations. Everything was in the hands of one man and the officials were merely his clerks. Thus Livingston wearied himself and the French officials for months with no apparent results. He knew that the First Consul was giving attention to the matter. Suddenly, when the prospect seemed darkest and when every effort had apparently been exhausted, the whole aspect of the matter changed. Napoleon was convinced that Louisiana would be a detriment to him in the war with Great Britain and he resolved that Great Britain should not have the Mississippi, which she so much desired. He moved quickly when once his mind was made up. He believed that Great Britain intended to seize Louisiana, and that this would be her first act in the war between the two countries. French affairs were in a bad way in San Domingo since the death of Victor Leclerc, the brother-in-law of Napoleon, who had been in charge of the French forces in that island, and because of French weakness in America, the conquest of Louisiana would be very easy for the British, if they cared to descend upon it. He wished to make it impossible for them to get it, by turning it over to the United States. He was ready to do this because it would be more useful to France, if placed in the hands of this rising power than if he should attempt to keep it. He discussed the matter at length with Barbé-Marbois, minister of the treasury, and Decrès, minister of the marine, on Easter Sunday, April 10, 1803, and impressed upon them the importance of quickly acting because of the alarming news from Great Britain, showing that preparations for war were being rapidly pushed forward. The two ministers had differing views of the subject; Marbois, because of his American sympathies, being in favor of the transfer, while Decrès opposed it. Napoleon dismissed them, but early in the morning of April 11th called Marbois, and in his impetuous way gave his decision.

This was very quickly carried out. In a few hours Talleyrand sought Livingston and astonished him by asking him what he would give for the whole of Louisiana. Livingston told him that the United States wished only for New Orleans and the Floridas, but that it would be good policy for France to give the whole country above Arkansas River in order to place a barrier between the French and the British possessions in Canada. Livingston wished to leave the matter until the arrival of Monroe.

When Monroe arrived he was greatly astonished at the offer to sell the whole. He and Livingston discussed the matter at great length and tried to decide upon some price which they thought they might be justified in offering. Their powers only extended to an arrangement respecting the left bank of the Mississippi, including New Orleans, and there was no way by which they could get further instructions from their government without great loss of time, and so they wisely exceeded their instructions and entered upon negotiations for the entire colony.

In the afternoon they entertained company in Livingston's apartments, and seeing Marbois strolling by, they invited him in. After the company broke up, on the invitation of Marbois, Livingston went to his house, and the American remained there until after midnight discussing the proposed purchase. At this conference the whole Louisiana Territory was offered to the United States for one hundred million francs and the spoliation claims. These claims due American citizens amounted, according to the estimate of Livingston, to twenty-five million francs, so that the price asked was one hundred and twenty-five million francs. Livingston regarded this as an exorbitant price. No agreement could be made without first consulting Monroe, but the bargain was practically settled by Marbois and Livingston. The only point was the price to be paid. When Livingston reached home he spent hours in writing a despatch to Madison in which he attempted to show that the bargain was practically complete and that he had won

Louisiana without the help of Monroe. The way in which he proposed to reimburse the United States for its outlay is suggestive of the slight value placed upon the country to the west of the Mississippi. "I am persuaded that the whole sum (even if it was necessary to pay what Marbois asked) may be raised by the sale of the territory west of the Mississippi, with the right of sovereignty, to some power in Europe whose vicinity we should not fear."

Then followed a series of meetings in which the representatives haggled over the price. For two weeks after Monroe's arrival there was no progress. On April 27th Marbois laid before the negotiators the draft of a treaty in which he proposed eighty million francs as the price, which should include the sum requisite for the American claimants. Livingston and Monroe offered fifty million, with twenty more on account of the debts owed to the citizens of the United States. But Marbois would not proceed unless eighty million was offered. Finally the Americans agreed to this and the matter was laid before Napoleon. He was not at first willing to agree to the price, but his desire to give Great Britain a rival and the necessity of haste led him quickly to give up his objection. On May 2d the plenipotentiaries signed the French copy of the treaty, and two or three days later the English copy was signed.

The negotiations were carried on in a friendly spirit and with much more frankness than was customary in the diplomacy of that time. When they had signed the treaty they shook hands and Livingston said:

"We have lived long, but this is the noblest work of our whole lives. The treaty which we have just signed has not been obtained by art or dictated by force; equally advantageous to the two contracting parties, it will change vast solitudes into flourishing districts. From this day the United States take their place among the powers of the first rank; the English lose all exclusive influence in the affairs of America. Thus one of the principal causes of European rivalries and animosities is about to cease. Moreover,

if wars are inevitable, France will hereafter have in the new world a natural friend, that must increase in strength from year to year, and one which cannot fail to become powerful and respected in every sea. The United States will reëstablish all the maritime rights of the world which are now usurped by a single nation. These treaties will thus be a guaranty of peace and concord among commercial states. These instruments which we have just signed will cause no tears to be shed: they prepare ages of happiness for innumerable human creatures. The Mississippi and Missouri will see them succeed one another, and multiply, truly worthy of the regard and care of Providence, in the bosom of equality, under just laws, freed from the errors of superstition and the scourges of bad government."

This completed the work of the envoys; all that was now necessary was the ratification by the United States government, with which the negotiators had not once been able to consult. But Monroe, coming directly from the United States, and being the intimate friend of Jefferson, knew very accurately the public temper and especially the mind of the President. He made no mistake in his estimate. There was the decreasing Federalist party, which he knew beforehand would be in opposition to him; but he was right in supposing that the nation as a whole would be with the negotiators in their usurpation of power. This fact, that the public would support them and that their work was for the public good, led them to make a treaty which in many ways would be open to question, and they knew well beforehand that their enemies would find every vulnerable spot. They had no power to acquire the territory, but did the nation itself under its Constitution have any right to extend its geographical limits?

In this treaty the rights of Spain had been wholly disregarded. It had been specified in the treaty of San Ildefonso that France should not alienate this land to any other power. But Napoleon, with utter disregard of treaty rights, entirely overlooked this obligation and sold the land to the nation

above all others liable to be unfriendly to Spanish interests in the New World. Spain had reason to fear the United States more than any other nation, because American aggression would naturally be directed against her other territories, the Floridas, the neighboring islands, and Mexico. All that Spain could possibly fear at that time has been realized.

Would this disregard of Spanish rights invalidate the title? And even back of that was another question. Did France have a legal right to the land? It had been given to her with the understanding that certain conditions be fulfilled. In the treaty the rights of citizenship were to be given French subjects as soon as possible. This involved grave questions, which were to give rise to spirited discussions. How much land was there? The American negotiators knew that they received only "The colony or Province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it." This was very indefinite and the American commissioners tried to arrive at a clearer understanding of the boundaries of their purchase, but were unable to do so. They knew only that the Floridas, which they had been expressly instructed to purchase, were not included. The eastern boundary was in dispute. In the same way, indefiniteness existed as to the northern and western lines. But this could not be helped and was rightly regarded as a matter of comparatively little importance. The main thing was to secure a treaty which should insure the control of the Mississippi, and this had been done, no matter what had been left undone. The commissioners of America knew, as did the representatives of France, that the United States was getting a territory of imperial dimensions for a comparatively trifling sum; and the American commissioners, knowing that they were dealing with Napoleon and that he might suddenly change his mind, deemed it wise to close the bargain as quickly as possible and attend to details, such as the settlement of boundary questions, later.

The treaty can hardly be considered a triumph of American diplomacy. Certainly Jefferson's plan of acquiring the territory which would give control of the Mississippi was a good one, but Livingston's efforts were continually blocked. Monroe, after his arrival in Paris, accomplished very little, as the matter was practically arranged before he came. Both Americans were good at chaffering, but that was a very small matter. In the light of subsequent developments Louisiana would have been a good bargain even if it had cost what was originally asked for it.

With the development of the railroads, the control of the outlet of the Mississippi has become a matter of relatively decreasing importance, though it will, of course, be always of great importance. At the present time the transcontinental lines make it possible for the farmers on the Ohio and the Kentucky to ship their products abroad without first depositing them at New Orleans. This relatively decreasing importance may be acknowledged without decrying the immense value of the Mississippi in the development of the West. The control of the country west of the Mississippi is now of greater importance than the navigation of the river. It cannot be claimed that this was gained through the diplomacy of Livingston and Monroe. Napoleon really forced this Louisiana territory upon them. They knew nothing and cared little for this trans-Mississippi country. It was very remote and there was so little demand for a great increase of territory that they were not anxious to obtain it. They took it because they could not get what they wanted without it. Livingston's first thought, as we have noticed, was to sell it to some friendly power in Europe.

As the acquisition depended upon the will of Napoleon, we may well consider a little more fully than we have the reasons which so suddenly made him give up his ideas of a great colonial empire in the New World. We have the official statement of it in the letter of Talleyrand to Decrès after the completion of the treaty:

"The wish to spare the North American continent the war with which it was threatened, to dispose of different points in dispute between the United States of America and France, and to remove all the new causes of misunderstanding which competition and neighborhood might have produced between them; the position of the French colonies; their want of men, cultivation, and assistance; in fine, the empire of circumstances, foresight of the future, and the intention to compensate by an advantageous arrangement for the inevitable loss of a country which war was going to put at the mercy of another nation,—all these motives have determined the government to pass to the United States the rights it had acquired from Spain over the sovereignty and property of Louisiana."

There were several reasons why Napoleon desired to sell. The Treaty of Amiens, in 1802, had restored peace to Europe, but it was felt on all sides that it was a hollow peace and that the French ruler would not be satisfied with what he had obtained. The quarrel had not been healed and the compromising measures of the treaty were not pleasing to anyone. Neither party trusted the other and both Great Britain and France failed to carry out their part of the agreement. Great Britain had possession of Malta. Napoleon told the British ambassador, "I must either have Malta or war." War was declared by Great Britain in May. Bonaparte knew that if he held possession of Louisiana there would be trouble between him and the United States. He saw, as clearly as Jefferson did, that there could be no peace between a powerful nation controlling the outlet of the river and a growing commercial nation on its upper waters. He feared that Great Britain might take it from him by her power on the seas. Beside this, he needed all his money and strength for the impending conflict in Europe. Looking farther into the future, he saw that the one possible rival of Great Britain in her commercial greatness was the United States. He believed that he would be useful to the whole world if he could prevent Great Britain

from ruling America as she ruled Asia. He believed that with Louisiana added to her territory and the control of the Mississippi fully in her hands the United States would become the commercial rival of Great Britain and cause the British aspiration to control the wealth of the world to come to naught. Possibly, with keen political discernment, there was added to this need of money and the desire of raising up a rival to Great Britain, a realization of the resistless westward advance of the Americans, and that in the course of a few years they would in all probability possess this territory, whether France agreed to let them have it or not, and it would be better to give it to them at their own price than to have it taken without compensation.

Another reason why Napoleon gave up his colonial plans may have been his experience with San Domingo. His complete failure here not only had its influence on European affairs, but perhaps even more so on American. The latter has been generally underestimated, and while the eloquence of Wendell Phillips has made us familiar with the career of Toussaint L'Ouverture, the connection of this black leader with the Louisiana Purchase has not been so much dwelt upon. To understand this, we must glance at the relationship of the French to the island.

San Domingo, at the outbreak of the French Revolution was owned partly by Spain and partly by France, but commercially, the French end was by far the more important. At the time of the outbreak of the French Revolution, the French portion of the Island had a population of about five hundred thousand, of whom thirty-eight thousand were of European origin, twenty-eight thousand, free colored persons, and the remainder, negro slaves. Most of the free colored people were mulattoes and were often men of education and property, but with no political rights whatever. The enthusiasm for liberty spread from France to San Domingo and in 1790 the French National Assembly favored the mulattoes and gave them all the rights of French citizens. This news was received with great joy by the

mulattoes but with disgust and dismay by the European settlers, who declared that they would rather die than share their power with the despised race. There was immediately a division into two parties; the Europeans siding with the Royalists in France and the mulattoes with the Republic. Both parties took up arms and the conflict was complicated by a slave insurrection in which nearly the whole slave population rose and murdered the Europeans indiscriminately. The latter were compelled to make peace with the mulattoes, but the French Assembly repealed the decree giving rights to the mulattoes and a civil war lasting for several years followed. In 1794, universal freedom of the slaves was proclaimed by the French Assembly, ratifying a law passed the previous year by the commission in San Domingo. The English and Spaniards, hoping to profit by the confusion were trying to overcome the French forces, but this proclamation made the negroes think that the French were their friends, so those who had revolted tried to assist the French in driving out their enemies.

The greatest of the African leaders was François Dominique Toussaint, better known as L'Ouverture. He was the grandson of an African chief, but his father and mother were brought to San Domingo as slaves, and he had passed his life as a slave. His ability had been recognized and he had been taught to read and write. As a leader of the slaves in the insurrection, he showed himself to be possessed of great ability and energy, and when he came to the help of the French the English were driven from the island. In two years he restored peace, and the commerce and agriculture of the island revived under his rule. He was made in reality dictator of the island under the name of commander-in-chief. He was assisted by a council of nine men, of whom eight were white planters. They drew up a constitution by which Toussaint was made dictator for life. In many ways he resembled Napoleon, but the emperor could not well permit the ambitious plans of L'Ouverture, especially after July, 1801, when Toussaint declared the island

independent. This came at a very unfortunate time because peace had been made between France and Great Britain, which enabled Napoleon to turn his attention toward San Domingo, and this was the more necessary because of his larger plans beyond. France must have San Domingo as a base for operations in the Mississippi valley. If Napoleon could not crush out this little company of revolted slaves under their black leader, calling himself the Napoleon of the Antilles, how could he hope to overcome the resistance of those well-armed and well-disciplined "prime riflemen" on the upper waters of the Mississippi? So there was a deeper reason than appeared on the surface when Napoleon began his preparations for the conquest and reënslavement of the negroes of San Domingo. It meant for the United States that if his march on the western continent could be stopped by Toussaint L'Ouverture, the Americans would be saved the trouble and expense of driving him out of the Gulf of Mexico.

Napoleon appointed his brother-in-law, General Leclerc, commander of an expedition of thirty thousand men, who were to subdue the island, but at the same time, he wrote Toussaint promising him that the blacks were to have their liberty. The words could not be interpreted in any other way, as he said: "What can you desire? The liberty of the blacks? You know that in all countries where we have been, we have given it to people who had it not."

When the fleet arrived, these promises were not believed, and a fierce war was carried on, but Toussaint made the mistake of relying on his foes, so surrendered to Leclerc. He was taken to France a prisoner and after a few months died in prison in the Jura Mountains.

Reports came to Napoleon which gave him hopes that the island might be soon reduced to submission. He issued orders to restore slavery in San Domingo and at the same time he prepared his plans to take possession of Louisiana. He intended to do this under cover of sending reinforcements to San Domingo. But Toussaint had left capable

generals behind him and they continued an irregular but relentless warfare. They were greatly aided by an outbreak of yellow fever among the French soldiers, which swept them off by hundreds and nearly annihilated the army, Leclerc himself being one of the victims. The war continued under other leaders till 1803, when the French cause became hopeless and the French were driven from the island. So Napoleon lost his colony and thousands of his best soldiers. It probably revealed to him also the fact that any expedition on the other side of the Atlantic would be carried on with great difficulty; that if he could not conquer this little island, he could not hope to conquer the Mississippi valley. So Napoleon's army never reached Louisiana, but as fast as soldiers could be spared from the European conflict, they were sent to San Domingo, there to be destroyed by guerrilla warfare, or carried off by yellow fever. The French governor might go to Louisiana, but no army could go with him to establish the colony, and so it seemed better to Napoleon to sell what he could not hold.

When the news of the Louisiana Purchase reached Jefferson, he was greatly surprised. Instead of $2,000,000, his ambassadors had offered $15,000,000. They had been instructed to acquire New Orleans and a small amount of adjacent territory, but instead they had doubled the area of the United States if the treaty should be confirmed. There were also some very embarrassing constitutional questions which might be raised. According to the Constitution "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory and other property belonging to the United States;" but this only applies to lands owned at the time of the adoption of the Constitution. It does not expressly give the right to acquire new territory. There is nothing in the Constitution which expressly prohibits or permits the increase of territory and we can only find the views of the founders through chance allusions in their writings.

At the time of the Louisiana Purchase, Gouverneur Morris wrote concerning the Constitution that no decrees about an increase of territory were inserted in the Constitution because no bounds to the future expansion could be safely or wisely assigned.

It is quite certain that if the framers of the Constitution had wished to prohibit expansion they would have made that clear in the instrument itself. They wisely left it in such a way that the question might be settled on its merits whenever it might be necessary. If this were not true, then, as Gallatin said to Jefferson when the purchase was under consideration: "The United States are precluded from the enlargement of territory, a provision sufficiently important and singular to have deserved to be expressly inserted."

The President believed that he had exceeded his authority in making the purchase. He and the others interested in the transaction believed that the Constitution had been openly violated, and that, too, on a point on which the President and his party were very insistent. It would not have seemed strange for the centralizing Federalists to so stretch their authority, but for the strong States Rights men like Jefferson and Randolph to agree to such a move revealed that their good sense was superior to their politics, and that on a question of public importance they were willing to break away from their theories for the sake of the public good. Of course the Federalists took this opportunity to ridicule the States Rights men on account of their wide departure from their avowed principles.

The party of Jefferson believed that the United States were independent powers bound together simply for the purpose of foreign intercourse, and that no power in the Constitution, expressed or implied, gave the nation the right to purchase territory which should in time be formed into States with rights equal to those of the original States. Jefferson considered the Constitution a compact not binding upon any one State except in the ways definitely stated in the instrument itself. There was no stipulation for the

purchase of new territory and the admission of new States. Jefferson himself frankly said: "The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive . . . has done an act beyond the Constitution. The legislature, in casting behind them metaphysical subtleties, and risking themselves like faithful servants, must ratify and pay for it, and throw themselves on the country for doing for them, unauthorized, what we know they would have done for themselves had they been in a position to do it."

Jefferson was afraid that his act might be taken as a precedent and that this broad construction of the Constitution would make waste paper of it. But he authorized the purchase because he believed it to be the will of the people, and he expected the people through their representatives to ratify his act. In a letter to Breckenridge, of Kentucky, written August 12, 1803, he says: "This treaty must of course be laid before both houses, because both have important functions to exercise respecting it. They, I presume, will see their duty to their country in ratifying and paying for it, so as to secure a good which would otherwise probably be never again in their power. But I suppose they must then appeal to the nation for an additional article to the Constitution, approving and confirming an act which the nation had not previously authorized."

In order to have this idea carried out, Jefferson drew up a proposed amendment, which was submitted to his Cabinet. But the Cabinet took little notice of his efforts to remain true to the Constitution and still obtain the territory. In August, 1803, he submitted another draft of an amendment much briefer than the earlier one; by the second, Louisiana as ceded by France was to become a part of the United States. "Its white inhabitants shall be citizens and stand as to their rights and obligations on the same footing with other citizens of the United States in analogous situations." The land north of Arkansas River was for the present

reserved for the Indians. But the amendment, much to Jefferson's discomfort, was never seriously considered.

While there remained a strict construction party, it was no longer one in the sense in which Jefferson used the term. This open violation of the most cherished principles of the Republicans made it impossible for them to stand on their old ground.

The ratification of the treaty was a foregone conclusion, because of the rapidly decreasing influence of Federalism and the overwhelming power of Republicanism. There was a violent debate over the subject in Congress, but the remarks made by the Federalists went for nothing.

John Randolph, the leader of the Republican majority, made a feeble effort to reconcile this purchase with the strict constructionists' interpretation of the Constitution. He claimed that the Constitution did not restrict the country to particular limits, because at the time of its adoption the boundaries were nearly all unsettled and, therefore, because these were uncertain, the United States had the power of extending its boundaries. It may well be doubted whether Randolph took his own argument seriously. Others, men on both sides of the House, believed that the Constitution gave the power of acquiring territory. Roger Griswold, of Connecticut, held that the United States might acquire territory, but that there were other clauses in the treaty, especially the one which gave to the people of the purchased territory the rights of citizenship, which were unconstitutional. Back of the objection was the fear so often expressed by Timothy Pickering and other Federalists that this vast increase in territory and ultimate increase in the number of southern and western States would bring about the political ruin of New England. There was a clause relating to commerce which would mean, as it seemed to them, the ruin of New England commerce.

Joseph H. Nicholson, a leading Republican, agreed with Griswold that the United States had the constitutional right to acquire territory. Nicholson, in the debate, regarded this

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Robert R. Livingston. *From the copy by Pratt from the original by Gilbert Stuart, in Independence Hall, Philadelphia.*

doubt of the ability of the United States, or of any nation, to acquire territory as an absurdity. It was proven a right by the universal action of nations. When a governmental entity was attacked it had a right to weaken its enemy by dispossessing him of a part of his territory. Congress has the right to declare war under the Constitution, and the right to make treaties belongs to the President and the Senate. There were only two ways by which a nation could acquire territory, by conquest or treaty, and these two ways are provided for in the Constitution. This position of Nicholson was the one taken by the Supreme Court, when, at a later period, the question came before it for decision. The ruling of this body was that:

"The Constitution confers absolutely on the government of the Union the power of making war and of making treaties; consequently that government possessed the power of acquiring territory, either by conquest or treaty."

In the course of the debate in the House another constitutional difficulty was brought forward. It was stated in the Constitution that "No preference shall be given by any regulation of commerce or revenue to the ports of any one State over those of another;" but the seventh article of the treaty gave special preference to the port of New Orleans by making Spanish and French vessels entering that port pay no higher duties than the ships of the Union. Thus, the ships would naturally go to New Orleans instead of to the New England ports, and the New England trade with France and Spain and their colonies would be greatly injured. In relation to this it was fairly argued that this was only to prevent laws which would favor one State at the expense of another, but by the treaty all the States were treated exactly alike and only a territory favored, which territory is the common property of the United States, so that any benefit to it redounds to the advantage of the whole nation.

What was to be the *status of the territory* if the treaty were confirmed? There were again no precedents for the legislators. This was the first expansion, because the earlier

territorial governments had been formed from lands which had been owned by the original States and had been from the formation of the Constitution a part of the original domain. One provision of the treaty was:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

There was a long and earnest debate upon this before the treaty could be ratified. If the Constitution was a compact between the original States, how could they admit these foreigners to equal privileges.

Senator Pickering, of Massachusetts, said: "It is declared in the third article (of the treaty) that the inhabitants of the ceded territory shall be incorporated in the Union of the United States. But neither the President and Senate, nor the President and Congress are competent to such an act of incorporation." He believed the assent of each individual State to be necessary for the admission of a foreign country as an associate in the Union.

Senator Tracy, of Connecticut, said: "We can hold territory; but to admit the inhabitants into the Union, to make citizens of them, and States, by treaty, we cannot constitutionally do; and no subsequent act of legislation, or even ordinary amendment to our Constitution can legalize such measures. If done at all, they must be done by universal consent of all the States or partners to our political association."

Some, like Griswold, of Connecticut, claimed that the Louisiana country never could become a State. The prevailing view was that it was a part of the possessions of the United States and according to the Constitution could be disposed of as they saw fit.

When the question of ratification was brought to vote on November 3, 1803, it passed the Senate by a vote of twenty-six to five. This settled the question, on which both parties practically agreed, that the Union had a right to acquire new territory, and also that new territory might be incorporated into the Union.

In view of the importance of the cession, some opinions of the public men of the times, in regard to it, are of value.

Senator White, in a discussion of the treaty, November 2, 1803, stated his conviction that New Orleans and the mouth of the Mississippi must be controlled by the United States for the peace of the nation and the prosperity of the West,—"but as to Louisiana, this new immense, unbounded world, if it should ever be incorporated into this Union, which I have no idea can be done but by altering the Constitution, I believe it will be the greatest curse that could at present befall us; it may be productive of innumerable evils. . . . Gentlemen on all sides, with very few exceptions, agree that the settlement of this country will be highly injurious and dangerous to the United States. . . . Louisiana must and will be settled, if we hold it, and with the very population that would otherwise settle part of our present territory. Thus our citizens will be removed to the immense distance of two or three thousand miles from the capital of the Union, where they will scarcely even feel the rays of the general government; their affections will become alienated, they will gradually begin to view us as strangers; they will form other commercial connections, and our interests will become distinct. We have already territory enough, and when I contemplate the evils that may arise to these States, from this intended incorporation of Louisiana into the Union, I would rather see it given to France or Spain, or to any other nation on the earth, upon the mere condition that no citizen of the United States should ever settle within its limits, than to see the territory sold for a hundred million dollars and we retain the sovereignty. . . . Even supposing this was a desirable

acquisition, fifteen million dollars was a most enormous sum to give."

Representative Nicholson thought that the west bank of the Mississippi was almost incalculable in its value to the United States, if it was only for the purpose of preventing any foreign nation from colonizing it. If that country were thickly settled by a foreign nation, the whole river Mississippi, from its source to the sea, must be guarded by a strong chain of military posts.

Representative Griffin, of Virginia, said that he feared the effect of this vast extent of our empire, he feared the effects of the increased value of labor, the decrease in the value of lands, and the influence of climate upon our citizens who should migrate thither.

Madison, before the purchase was concluded believed: "That the United States had no interest in seeing circumstances arise which would eventually lead their population to extend itself on the right bank. In point of fact was it not evident that since these emigrations tended to weaken the state and to slacken the concentration of its forces, sound policy ought not to encourage them? In spite of affinities in manners and language, no colony beyond the river could exist under the same government, but would infallibly give birth to a separate State, having in its bosom germs of collision with the East, the easier to develop in proportion to the affinity between the two empires."

Senator Plumer, of New Hampshire, said: "Admit this western world into the Union and you destroy at once the weight and importance of the Eastern States and compel them to establish a separate, independent empire."

Representative Griswold, of Connecticut, October 25, 1803, said: "It is not consistent with the spirit of a Republican government that its territory should be exceedingly large; for, as you extend your limits, you increase the difficulties arising from a want of that similarity of customs, habits, and manners so essential for its support. . . . It will not be found either in the report of the secret

committee which has been recently published or in any document or debate, that any individual entertained the least wish to obtain the province of Louisiana; our views were then confined to New Orleans and the Floridas. . . . The vast and unmanageable extent which the accession of Louisiana will give the United States; the consequent dispersion of our population, and the destruction of that balance which it is so important to maintain between the Eastern and Western States, threatens, at no very distant day, the subversion of our Union."

Hamilton wrote: "I have been long in the habit of considering the acquisition of these countries as essential to the permanency of the Union, which I consider as very important to the welfare of the whole." He makes these four vital propositions:

1. That we should take possession of Louisiana and the Floridas for ourselves.

2. We should not allow them to fall into the hands of an aggressive foreign power.

3. The United States must keep the key to the Up-River Western country.

4. That the acquisition of Louisiana and the Floridas was essential to the perpetuity of the American Union.

Fisher Ames wrote: "Now by adding an immeasurable world beyond the Mississippi, we rush like a comet into infinite space. In our wild career we may jostle some other world out of its orbit, but we shall in any event quench the light of our own."

Manasseh Cutler's opinion was that: "The purchase of Louisiana may be a good thing and it may be attended with many serious evils. I consider the price much too high. But my objection to the treaty is, that it is in itself, and in its operations, a flagrant violation of the principles of the Constitution, which alone would compel me to give it my negation. There are other objections. The admission of this State into the Union not only carries the balance of power into those States farther southward, but in all probability

will lay the foundation for a separation of the States. It may produce a very interesting change in the commerce of the northern States, for France and Spain and their provinces, may be supplied with every production of this country from the Mississippi, and will probably exclude us from their islands. The privileges to be allowed their vessels in these ports may have a material effect upon the trade of the other States. It is also very doubtful whether we have obtained a fair title—whether the treaty of Ildefonso has ever been fulfilled on the part of the French. It is reported here, and I find it believed by those who are likely to know much of the secrets of the cabinet, that the Spanish minister here has presented a remonstrance to the Executive against taking possession of the province. The consequences of the treaty must after all depend upon the state of things in Europe."

In a letter of October 31, 1803, Cutler writes: "The purchase may, possibly, prove a good thing, and, taken on general principles, the quantity of land may be worth the money. . . . The admission of the province into the Union must throw New England quite into the background. Her influence in government, from the rapid spread of population to the south and west, is naturally declining, and this must be nearly a finishing stroke. The introduction of a still greater number of naturalized aliens into our legislature is to be expected, when, even now, were you to hear the variety of dialects, it could not fail of bringing to your recollection the building of Babel. . . . I will only add that it cannot be doubted, the moment Louisiana is admitted into the Union, the seeds of separation are planted."

As we have already noticed, the boundary of Louisiana was in dispute, so that the French did not know what they sold, and the Americans did not know definitely what they had bought. This is not at all to be wondered at, and it was not regarded as a matter of any great importance one way or the other that the western and northern lines had never been defined with any attempt at accuracy. Naturally Spain

insisted upon her own interpretations of the boundaries and at once there were misunderstandings which were not finally adjusted until 1819. France gave to the United States nothing but a quit-claim deed to the province of Louisiana, with the same extent that it had in the hands of Spain in 1800, and that it had when previously possessed by France.

When Marbois expressed his regret that it was not possible to make the boundaries definite, Napoleon replied: "If an obscurity did not already exist, it would, perhaps, be good policy to put one there."

Even the eastern boundary was in question. Livingston asked: "What are the eastern boundaries of Louisiana?" and Talleyrand replied: "I do not know; you must take it as we received it." "But what did you mean to take?" asked Livingston; and again the answer was: "I do not know." "Then you mean that we shall construe it in our own way?" Talleyrand's final reply to Livingston was: "I can give you no direction. You have made a noble bargain for yourselves, and I suppose you will make the most of it." His supposition was correct.

The northern and western bounds were matters of little moment at the time because the country was known only to the fur-traders. A difference in area of a few thousand square miles one way or the other was a matter of small importance. The eastern boundary was the Mississippi, from its source to the thirty-first parallel, but the source was an unknown place. On the north the purchase was bounded by the territory of Great Britain, and on the west it included the territory whose lakes and rivers emptied directly or indirectly into the Mississippi, so that it extended to the summits of the Rocky Mountains. On the southwest it was bounded by either the Rio Grande or the Sabine. France based her claim to the country as far as the Rio Grande on the exploration and attempted settlement by La Salle, but the country was occupied by Spain as far east as the Sabine and the French settlement stopped at Natchitoches. This dispute over the southwestern boundary

was due to the difference between the actual and theoretical possession of the territory in question by France, and the United States acquired the French claim to the territory now called Texas.

By the Florida Purchase, in 1819, the United States agreed to accept the line which now forms the eastern boundary of Texas for its western boundary. The remainder of the land claimed to the west, under the treaty of 1803, was by this treaty of 1819 surrendered to Spain. This was regarded by some as a sacrifice of a part of the territory of the United States, but it was the best that could be done without resort to war, and later the disputed territory came to the United States as a result of the Mexican War.

The eastern boundary was a matter of more importance and was more difficult to settle. As far south as parallel thirty-one there was no question; but there was much confusion about the western limits of West Florida and how far east of the Mississippi the cession to the United States extended if it was not indeed bounded by the river. Spain claimed that the western boundary line of West Florida was the Mississippi, while the United States claimed that it was Pensacola River, and that if France was not in actual possession in 1803, it, nevertheless, had a right to the land. This boundary was debated and discussed frequently, but no settlement was made until 1819, when Spain ceded the "Perdido Claim" to the United States, but not until the United States had taken possession of the disputed territory.

While there was this great uncertainty of boundary and great ignorance of much of the land acquired, certain parts of the acquisition were well known. The United States had gained a number of straggling towns scattered along the river inhabited by French and Spaniards, and two places which might even be called cities, St. Louis and New Orleans. These had grown because they were centres for the trade of the Mississippi and its branches. St. Louis was a fur-trading centre. It controlled the traffic of Missouri,

Mississippi, Wisconsin, and Illinois Rivers, and had a population in 1780 of eight hundred, including one hundred and fifty negroes; by the time of the cession the number of inhabitants had increased to twelve hundred. The location was on high land and according to Hutchins, "The most healthy and pleasurable situation of any in this part of the country." The population was made up of traders, merchants, and boatmen, so that in many respects it was like the smaller French settlements in the Illinois country. Its origin dated back to the transfer of the east bank of the Mississippi to Great Britain. Many of the French refused to live under English law and so migrated under the leadership of Pierre Laclede, a prominent fur trader, to the west side of the river, where they founded a town and named it St. Louis in honor of Louis XV. of France.

New Orleans was a much larger city and had had from its beginning a varied and stormy career. It had been laid out under the direction of Bienville, in 1720,—with the precision of a military camp, but because of its location in the midst of canebrakes, cypress swamps, and stagnant ponds, it was from the first afflicted with malarial and bilious fevers, and in the hot seasons was often visited by yellow fever brought in from Mexico and the Antilles. In spite of the unsanitary surroundings, it grew rapidly, especially after 1732, when the French king removed all duties, thus establishing free trade between Louisiana and the northern country. At the time of its transfer to Spain, the population had risen to thirty-two hundred people, living in a well-fortified city. Its splendid commercial location giving it control of the commerce of the Mississippi valley, brought wealth to its people; the huts of the first colonists were replaced by comfortable and in some cases luxurious homes. In 1788, the population had increased to fifty-three hundred, still very largely French, and with the outbreak of the Revolution in France, strongly in sympathy with that movement and showing a desire to resume allegiance to that

country. In the years since its settlement little had been done to solve the peculiarly difficult problem of its sanitation. Because of its low level, every freshet flooded the lower streets of the city. The great swamp back of the city furnished a breeding ground for myriads of mosquitoes, while the ponds and marshes near the city loaded the air with malarial poison. There was no way of draining the streets and New Orleans justly merited the title of the most unhealthy city in North America. In 1803, at the time of the cession to the United States, the city contained fourteen hundred houses and a population of about twelve thousand within the walls. The society was what might be expected from the history and commercial importance of the place. In its port, the crews of backwoodsmen came in great numbers and amused themselves after their long journey down the river. There were also the many crews from the ships which carried the sugar and products of the country farther north to the Atlantic ports and the cities of the Old World. Sometimes along the levee, two hundred ships and river craft could be seen at once. The population was a mixture of French, Spanish, American, and blacks. It was a population fond of drinking, carousing, and every form of amusement. It should be remembered, however, that there was a conservative, quiet, respectable element which had been coming in almost from the days of Bienville. There was a large immigration in the period of the French Revolution, and under Spanish rule, there came in some of the best blood of Spain; so that in this busy, turbulent, adventure-loving, wicked city, there was an element of good, and many of the people of New Orleans to-day can point with pride back to this period when their high-born ancestors came to try their fortunes in the New World.

At the time of the transfer, the streets of the city were dirty and poorly paved with plank walks by the side of the muddy streets. But the city contained many handsome public and private buildings. Of these the most famous was the Cabildo, the meeting place of the municipal council.

This was one of the most beautiful buildings in America. Of the churches, St. Louis Cathedral excited the pride and reverence of every loyal Catholic in the city. There were many elegant private residences in the city and its suburbs, owned by the wealthy merchants. This was especially true along the Bayou St. John, where there were handsome Italian villas surrounded by gardens. These villas were approached through avenues of wild orange trees. The cosmopolitan character of the city was reflected in its architecture, in which the Spanish and French houses with their abundant balconies suggested the outdoor life of a semi-tropical country, and the red-tiled roofs and fine specimens of wrought-iron work in transoms and window gratings formed a pleasing contrast to the plainer architecture imported from the north.

Another peculiarity of New Orleans at this time was the method of trade which then prevailed. Bulky articles of merchandise were brought down the river and landed on the wharves and levees, and there, instead of in the storehouses, these articles were bought and sold.

These two places, St. Louis and New Orleans, contained about one-third of the white population of Louisiana, which was very small compared with the uncounted Indians who had disputed the possession of the land with the whites. There were about as many negro slaves as white people, many of these slaves being direct importations from Africa who had brought with them their African savagery. On the river between New Orleans and St. Louis there were scattered French settlements, the principal being Natchitoches on Red River, Arkansas Post on the Arkansas; and farther up the river toward St. Louis were New Madrid, Cape Girardeau, St. Geneviève, Carondelet, and St. Charles. In the northern part of the Purchase were also a few scattered trading posts inhabited by French Canadians.

The Louisiana Purchase covered eight hundred and eighty-three thousand and seventy-two square miles, which was equivalent to five hundred and sixty-five million one hundred

and sixty-six thousand and eighty acres. This did not include the area west of the Rocky Mountains and east of the Mississippi. It included the territory now occupied by the States of Arkansas, Missouri, Nebraska, North and South Dakota, and parts of Minnesota, Kansas, Colorado, Montana, Wyoming, Louisiana, and all the Indian Territory and part of Oklahoma. "Its area is more than seven times that of Great Britain and Ireland, more than four times that of the German Empire. It is larger than Great Britain, Germany, France, Spain, Portugal, and Italy combined. It is about one-fourth less than the area of the thirteen original States."

Meanwhile, the people of New Orleans were going through the changes of government without much interest in the matter. Laussat, the prefect sent over by Napoleon, arrived in March, 1803, and prepared to take possession. He was received with much ceremony by the Spanish officials and would have been received with joy by the French, who were anxious to return to their allegiance to France, except that a rumor was in circulation that Laussat intended to free the slaves. But soon after his arrival another and more disturbing report ran through the land. It was that the colony had been ceded to the United States. This was soon confirmed and Laussat received notice that he was to conduct the surrender.

On the 30th of November, the province was surrendered by Spain to France. The Spanish flag was hauled down from the flagstaff on the public square and the flag of France took its place. But Napoleon remained in possession only twenty days, and in that time his principal acts were in preparation for the cession to the United States. The Spaniards were indignant at what they justly called a breach of faith on the part of the French, but there was nothing for them to do but to submit as gracefully as they might.

On the 20th of December, 1803, Louisiana was turned over to the American commissioners, General Wilkinson and Governor Claiborne. The commissioners had come

to New Orleans and encamped just outside the walls of the city three days before, and sent a messenger asking for a conference in which they might arrange for the transfer. On the 20th, the Americans marched into the city, led by the commissioners, and were received by Laussat. The French commander delivered to Claiborne the keys of the city. The French flag descended from the staff in the square and was replaced by the American flag. There was no very great enthusiasm because the people had nothing to do about making the change and they did not know what it might mean for them. They were somewhat reassured when they were told that they were to remain undisturbed in their property and religion, and that there was to be no interference with slavery.

Claiborne, who became governor of Lower Louisiana, was honest, but without tact, and never understood the people he governed. Wilkinson, then head of the American army, was governor of all Upper Louisiana. There was friction between the government and the natives for many years. It was a place where sedition grew, but the coming in of great numbers of Americans, the gradual adjustment to new conditions, and the conviction that prosperity depended upon union with the United States at length reconciled the people to the change of ownership.

Amos Stoddard was, at the time of the treaty of cession, the constituted agent of the French republic in Upper Louisiana, and in the name of the republic received possession of that province on the 9th of March, 1804, and the next day transferred it to the United States. Stoddard was appointed first civil commandant of Upper Louisiana and was commissioned to exercise the powers and prerogatives of the Spanish lieutenant-governor of that province.

CHAPTER XIII

EXPLORATION OF THE LOUISIANA PURCHASE

JEFFERSON's interest in the far West antedated the Louisiana Purchase at least to the time when he was in Paris as minister to France in 1785. Here he met John Ledyard, of Connecticut, a brave, daring explorer who had accompanied Captain Cook on his voyage to the Pacific. Ledyard was in Paris trying to organize a fur trading company in western North America, but he failed to interest men in his project.

Ledyard was far ahead of other men in his conception of America's future greatness. After his voyage with Cook, he was anxious to secure the trade of the northwest for America rather than have it go to England. The Revolution seemed to him to open the way for an exploration of this country; he believed that the resources and boundaries should be explored by an American and he was anxious to be the one to do it. He had frequent interviews with Jefferson, who proposed to him to go by land to Kamchatka, cross in a Russian vessel to Nootka Sound, then go down to the latitude of Missouri River and from that point penetrate into the interior of the continent. Ledyard consented on condition that permission be secured from the Russian government. This was readily obtained and Ledyard, entering upon this difficult journey, passed the winter two hundred miles from Kamchatka. When he was ready to start on his voyage in the spring, he was prevented by officers of the Russian empress, who had changed her mind and would not allow him to proceed. He was carried back to

Poland and left to himself. He never fully recovered from the hardships of the journey, but his adventurous spirit would not let him rest, and he died in 1788 in Egypt, while about to make an expedition to discover the headwaters of the Nile.

Jefferson made a second attempt, which met with no better success. In 1792, he proposed to the American Philosophical Society that some competent person be engaged to attempt the expedition in the opposite direction, that was, to ascend the Missouri, cross the Rocky Mountains, or Stony Mountains, as they were then called, and descend by the nearest river to the Pacific. This was a hazardous undertaking through hostile Indian country, and to avoid exciting suspicion among the Indians it was decided that the explorer should be accompanied by only a single companion. Meriwether Lewis volunteered, but a man better suited for scientific observation, Mr. Andre Michaux, a botanist and an author of scientific works, offered himself and was accepted. He had proceeded as far as Kentucky when an order from the French minister recalled him and he was compelled to pursue his botanical work elsewhere and the expedition was given up.

After the purchase was consummated, Jefferson sent a communication to Congress conveying such information as was then available about the new possession. It was an interesting document, full of most remarkable statements; but these hardly exceeded the real wonder of the country. Jefferson was correct as to the information he had collected about the immense prairies covered with buffalo, and of land so fertile that it brought forth the necessaries of life almost spontaneously. The report told of Indians of great stature and of bluffs that were carved by the hand of nature into the semblance of great towers. The most curious statement in this strange document was about the Mountain of Salt. This mountain was said to be one hundred and eighty miles long, forty-five miles wide, and all of white, glittering salt, with salt rivers flowing from cavities at the base.

William Charles Cole Claiborne. *After the miniature by A. Duval.*

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The report was greatly ridiculed by the enemies of the administration, but time has shown that it would have appeared still more ridiculous if it had told the actual truth about the West. Jefferson did not exaggerate the abundance of game or the value of the land. The towers and battlements were there in greater abundance, grandeur, and beauty than anything he had imagined. The actual mineral resources of the country were so great that the report would have caused still greater mirth if it had mentioned a tenth of the wealth of the present State of Montana.

In 1803 the act for establishing trading houses with the Indian tribes was about to expire. Jefferson, in a confidential message to Congress, recommended some modification of the system and an extension of it to the Indians on the Missouri. As a preparation for this, the message recommended that an exploring party be sent to trace the Missouri to its source, to cross the Highlands, and then go down one of the rivers to the Pacific. It was regarded as a matter of great importance to find some practicable waterway from the Missouri to the Pacific, if possible. Nothing was known of the great interior country except from the untrustworthy stories of wandering trappers. The Missouri was an unknown river, except that it was known to be of great length, and that it rose in a mountainous region far to the northwest.

This plan of Jefferson to find out something about these regions under cover of making trading regulations with the Indians met with the approval of Congress and the required money for the expedition was voted. Captain Meriwether Lewis at once applied for permission to lead the expedition.

Jefferson describes Lewis as a man possessing the qualities required for the position:

"Of courage undaunted; possessing a firmness and perseverance of purpose which nothing but impossibilities could divert from its direction; careful as a father of those committed to his charge, yet steady in the maintenance of order and discipline; intimate with the Indian character, customs,

and principles; habituated to the hunting life; guarded, by exact observation of the vegetables and animals of his own country, against losing time in the description of objects already possessed; honest, disinterested, liberal, of sound understanding, and a fidelity to truth so scrupulous that whatever he should report would be as certain as if seen by ourselves,—with all these qualifications, as if selected and implanted by nature in one body for this express purpose, I could have no hesitation in confiding the enterprise to him."

He made up his lack of preparation in the technical knowledge of the natural sciences and geography and astronomy by work which he undertook at once in Philadelphia.

William Clark, the brother of George Rogers Clark, was selected by Lewis as second in command and very joyfully accepted the position. Clark received a commission as captain. This first exploring expedition undertaken by the United States government was fortunate in the men selected as leaders. They knew frontier life, were young, enthusiastic, and of excellent Virginian families. They were given very careful instructions as to their work and the value of the expedition is largely due to the care with which they followed out these directions. They were provided with instruments for making observations, articles for presents and barter with the Indians, and very complete equipment for the company who went with them. The expedition started before the United States had purchased Louisiana, but at a time when that country had been ceded to France. The French, Spanish, and English ministers were informed of the expedition and its objects and they afforded them what protection they could while in the territories of their respective countries. The main object was to find the source of the Missouri and explore its principal branches and to find the most practicable water communication across the continent, special attention being given to suitable portages between the sources of the Missouri and the westward flowing waters. Great care was to be taken in preserving the records, and, to prevent possible loss, duplicate

copies were to be in the care of different persons, one at least of these copies was to be on birch bark, because that was less perishable than common paper. A special study of the Indian tribes along the journey was to be made, as one of the main objects of the expedition was to establish trade with them. Not only their language, laws, occupations, customs, and the possible articles of commerce which might be furnished them, but "considering the interest which every nation has in extending and strengthening the authority of reason and justice among the people around them, it will be useful to acquire what knowledge you can of the state of morality, religion, and information among them, as it may better enable those who may endeavor to civilize and instruct them to adapt their measures to the existing notions and practices of those on whom they are to operate."

They were instructed to treat the natives in a friendly and conciliatory way and show them the friendly character of the United States, arranging visits of their chiefs to the United States at the public expense. If the natives wished to have some of their young people instructed in the United States, the explorers were to encourage this desire. They were to note the mineral resources, the fauna and flora and the climatic conditions of the country through which they passed.

While the country explored was to be the land drained by the Missouri and its tributaries, the expedition was to gain all the information it could of the neighboring country, especially that toward the south. Any information the explorers might gain about the sources of the Mississippi and its relation to the Lake of the Woods would be very acceptable. They were instructed to send information to the government whenever opportunity offered, and not to take any unusual risks in opposing hostile forces superior to their own. Directions were given them how to regulate their course when they reached the Pacific and for their return journey. Lewis was authorized to appoint someone

to succeed to command in case of his death, and all the authority given to Lewis was in such event to be exercised by his successor.

Before the completion of the preparations for the Lewis and Clark expedition, the country under consideration was transferred to the United States, so that now the project had an added interest. It was no longer an exploration of foreign country to increase trade with the Indians, but, because of the Purchase, it became the exploration of land which might some day be peopled by Americans.

Lewis left Washington July 5, 1803, and proceeded to Pittsburg, where he found supplies and the presents for the Indians provided for the expedition.

There were various delays in descending the Ohio so that it was thought best not to attempt the contemplated voyage of the Missouri until spring. The party encamped on the banks of the Mississippi opposite the mouth of the Missouri, and the winter was spent in drill and preparation. The company consisted of Lewis and Clark with twenty-seven companions. Of these men, one was a half-breed Indian interpreter, two were French voyageurs, one a negro servant belonging to Captain Clark, and nine were young volunteers from Kentucky. The others were soldiers of the regular army selected from the military stations along the Ohio. In addition to these there were seven soldiers and nine boatmen who were to accompany them to the Mandan villages on the Missouri, which were regarded as the most dangerous part of the expedition.

The journey up the Missouri began May 14, 1804. The three boats were deeply laden with supplies for the party and the articles which were taken as presents for the Indian chiefs through whose territory they must pass. One of these boats was forty-five feet long and partly decked over; the others were open rowboats; by oars and sails these boats were forced slowly against the yellow stream of the Missouri. They made from ten to twenty miles a day and occasionally saw the scattered houses of the French settlers

and traders, but these became less and less frequent as the expedition progressed, in the spring and early summer, through what is now the State of Missouri. Occasionally a roving Indian was seen; game was abundant and the explorers lived luxuriously on the water fowl, deer, and wild turkey killed by their hunters. One of the objects of the expedition, as given in the instructions of Jefferson, was to make friends with the Indians and open up trade with them. Another object, after the cession of the northwest to the United States, was to inform the various chiefs of the change and let them know that they were now on territory belonging to the United States. Lewis and Clark did this. They were very successful in their dealings with the Indians from the time they met the first party for a council on a bluff overlooking the Missouri, and therefore called Council Bluffs, to the end of the expedition.

The change of ownership did not trouble the Indians at all. It was a transaction which they could not understand and for which they would have cared nothing if they had understood, but they were friendly to the explorers, gladly promised allegiance to the new government, and thankfully took their gifts.

The explorers reached the first of the Mandan villages, near what is now the city of Bismarck, North Dakota, on October 21st. Here the increasing cold warned them that it was time to prepare for the winter encampment; so going a few miles farther north, they built heavy log houses surrounded by a stockade, and called it Fort Mandan. They remained here through the winter in friendly intercourse with the Indians and gaining much information about their lives, but not much data on which they could rely about the country toward the Pacific.

In the latter part of February the boats were made ready for the onward voyage. As spring came on the party divided, the escort returning down the river in the largest boat, which would be decreasingly useful for the upper courses of the Missouri. The returning party took with them packages

of specimens for President Jefferson, as well as letters and official reports. Among the specimens were stuffed animals, articles of Indian dress, plants and seeds, salt, minerals, and specimens of earth. These safely reached Jefferson and were by him kept on exhibition at Monticello for many years, but were subsequently dispersed.

The expedition now continued its journey up the Missouri. It had been notably increased by the addition of Toussaint Chabonneau, and his wife, Sacajawea. The wife was especially helpful, although she was encumbered with the care of a young child. Sacajawea was a Snake Indian. She had been taken captive by the Minnitarees in a war between that tribe and the Snakes, and sold as a slave to Chabonneau, who reared and married her. Sacajawea proved useful as a guide when the explorers reached her own country, which was unknown to any of them, and she was also valuable as an interpreter. The kindness shown to this woman prepared the way for reciprocal treatment by the tribesmen of the far west. It is probable that the success of the expedition depended more upon Sacajawea than upon any other individual of those who accompanied Lewis and Clark.

The explorers went through North Dakota and into Montana, travelling toward the west instead of the north, and undertaking a journey which kept them out of contact with civilization until the fall of 1806. As they ascended the river, travel became more dangerous, and they were often compelled to drag their boats over the shoals or through the rapids. They found but few traces of Indians. There was an abundance of game and their hunters kept them well supplied with buffalo meat, bear, and venison, and occasionally with birds and fish. It was a hunter's paradise and one which in all probability had never been visited before by white men.

They passed the mouths of the Little Missouri and then the Yellowstone, making short exploring trips up each river. The mosquitoes and the alkali dust troubled them greatly,

the dust even penetrating into the works of their watches. They sometimes came to branches of the river so large that careful exploration was necessary to decide which was the river and which the branch. A journey of perhaps a hundred miles in the wrong direction sometimes resulted from a mistake. The most difficult case was that of Maria's River. Lewis and Clark both believed that this was only a branch, while the men, though perfectly willing to follow their leaders, all thought that it was the main stream. They hid part of their provisions at the junction of the streams and went on without turning to follow along Maria's River. Lewis and four men proceeded in advance of the others and went inland. After a time, Lewis heard the distant roar of the Great Falls, a most welcome sound, because now he was sure that he was following the Missouri. As he advanced a spray arose from the plain like a cloud of smoke but quickly vanished. He directed his footsteps toward this and walked seven miles after hearing the first sound before he reached the magnificent falls. Here for thirteen miles the Missouri forms a series of cascades and rapids. The explorers were enraptured at the glorious sight and their report gives a full and vivid description of this wonderful work of nature. The task of taking the boats and supplies around the falls was a difficult one. They had to be carried overland for a distance of eighteen miles. Rude wagons were built for this purpose; cart wheels were fashioned out of sections of the trunks of cotton wood trees. A large part of the supplies had to be carried on the backs of the men. The journey was made difficult by the thorns of the prickly pear which penetrated the travellers' moccasins, but the men went cheerfully about their difficult task and after a month had passed it was accomplished. They soon came into the region of high mountains, where the river flowed through a gorge which they called the Gate of the Rocky Mountains.

On the 25th of July, they came to a place where the stream divided into three nearly equal branches, which they

named Gallatin, Madison, and Jefferson. Clark ascended the north branch, then crossed over to the middle and beyond the main body at the Forks. The hard work of the journey now began, because they were entering a region where travelling was still more difficult and game less abundant, with the rigors of a winter in the Rockies before them.

So far they had only had to follow the river, now they were to find its source, cross over the divide and reach the head waters of the Columbia. Their success in doing this would depend upon the assistance and information which they might obtain from the Indians, added to their own good sense and courage.

On August 12th, Captain Lewis reached the highest source of the Missouri, where the river, so mighty in its lower courses, was a brook so small that it could be easily stepped over. It was the Jefferson branch and its source was in the Bitter Root Mountains. In a few hours the explorers crossed the divide, and came to the water flowing into the Pacific. After following this stream for three days it was found to empty into a larger one which they called the Lewis, a branch of the Columbia. In the descent of these rivers to the Pacific, they suffered many hardships, because of the difficulty in procuring food and because of the rapids in the rivers.

The Indians proved friendly and furnished them with horse and dog meat when they could not provide themselves with game. As they approached the lower waters of the Columbia, they were able to vary their diet with dried fish, also purchased of the Indians. The winter was spent on the Pacific coast where they built log cabins and named the encampment Fort Clatsop.

They started on the return journey in March, 1806, retracing their steps part of the way, until they reached Clark's River at the point which they had named Traveller's Rest on the outward journey. Here they separated for a time, Lewis taking a party and going in search of the source of Maria's River, while Clark floated down the Yellowstone.

They met with many adventures and accidents, the most serious of the latter being the unintentional shooting of Lewis by one of his men, who took him for a deer; fortunately, he received only a flesh wound. In September, 1806, the two parties were again in St. Louis.

A report was made which excited much interest and prepared the way for the fur trader and trapper and the later settler.

Lewis and Clark were not trained scientists, but they added greatly to the knowledge of the West. The expedition was remarkable because of the completely successful treatment of the natives and the good health maintained by the explorers, only one man having died during the journey. Congress made a grant of land to each member of the expedition and gave Lewis and Clark positions of responsibility. Lewis was appointed governor of Louisiana, which office he administered with impartiality at a time when the country was distracted by feuds; but his career was a short one. From youth he had been subject to periods of deep melancholy which increased in frequency and severity. While on a journey to Washington in 1809 he showed alarming symptoms of derangement. He was unwisely left alone one night. When morning came it was found that he had taken his own life.

Clark became general of militia in Louisiana and later governor of Missouri Territory. In 1822 he was appointed Superintendent of Indian Affairs, a position for which he was well fitted and in which he served honorably until his death in 1838.

While these two men were opening up the northwest, an expedition under the command of Zebulon Montgomery Pike was trying to discover the sources of the Mississippi. Pike was sent by General Wilkinson, who also ordered him to make treaties with the Indians and inform them of the change of sovereignty. He left St. Louis in August, 1805, accompanied by a sergeant, corporal, and seventeen privates. He made his way slowly up the Mississippi and on October

16th reached a point two hundred and thirty-three miles above the Falls of St. Anthony, where he established winter quarters. From this point he made journeys with sleds, visiting the Indians and the agents of the Fur Company. His object was to inform them of the change in ownership of the land, telling them that they were now under the authority of the United States. The explorers lived largely on the game they killed and suffered the vicissitudes common to hunters in the northern wilderness. Pike did not succeed in finding the true source of the Mississippi though he supposed that he had done so. He explored in the Leech Lake region, visiting the Indians and the trading posts there, and returning south reached St. Louis on April 30, 1806.

This expedition showed that Pike was well fitted for the work of an explorer, and so Wilkinson sent him at once upon a more difficult undertaking. The real purpose of this second expedition has never been fully explained. Ostensibly it was, like the journey of Lewis and Clark, and Pike's earlier trip, an attempt to explore the new country and enter into peaceable trade relations with the Indians, at the same time receiving their allegiance to the new government. The country to be explored was in the neighborhood of the sources of Red and Arkansas Rivers and into New Mexico as far as the Spanish settlements. It may be that Wilkinson planned to use Pike for forwarding some plan of his against the Spanish power to the southwest. The journey was certainly viewed with suspicion by the Spaniards, and in the Burr conspiracy suspicion was cast upon Pike, but there is no good reason for supposing that he was implicated in this affair. It is possible that Wilkinson's main object was to find out the condition in New Mexico with a view to using this knowledge for his own advantage; but if this was the case, Pike did his work unconscious of the real object.

Pike left St. Louis in July, 1806, with about the same number of men that accompanied him on the former expedition and also fifty Osage Indians who were on their way back

to their tribe. The journey was up Missouri and Osage Rivers in boats. The explorers reached the Osage villages about the middle of August, and leaving their boats there, started on horseback across the plains. They followed up the Osage for some distance, then crossed to a tributary of the Arkansas, and at length reached Republican River, where Pike hoped to come to terms of friendship with the Pawnees. Here the expedition began to feel Spanish influences. The Indians had been recently visited by a company of Spanish soldiers who assured them that their country was still under Spanish rule. Pike, however, induced the Indians to give up the Spanish flag that had been left with them and he hoisted the American flag in its place, a ceremony which meant no more to the Indians than did Lewis's similar action on the Upper Missouri. Leaving Republican River, the explorers journeyed south until the Arkansas was reached, where the party divided, one section going down the river, the other, under the command of Pike, turning toward the mountains in an effort to fulfil one part of his mission, which was to follow the Arkansas to its source. He did not succeed in doing this because of the lateness of the season and the severity of the winter in the mountains. In the course of his explorations, Pike discovered and ascended the peak which now bears his name. Then he journeyed to the southwest and the difficulties increased. The snows obliterated the trail and his men were often lost and on the point of starving, sometimes going two days without food. Some of them had their feet frozen before they at last found Rio Grande River. They passed through terrible experiences. At one time their entire food for forty-eight hours consisted of a single partridge. Again they were without food for four days. They cut up their blankets for stockings and made shoes out of buffalo hide.

At the Rio Grande they were met by Spanish soldiers who told them that they were on Spanish territory. The explorers were taken to Santa Fé as prisoners though they were treated courteously. They were examined by the

Governor of New Mexico, who suspected them of designs against the country. The Spaniards had heard of Burr's plans and suspected that Pike's expedition was preliminary to carrying out these schemes. After being detained for a time the explorers were deprived of their papers and sent back home through New Mexico, and in July reached Natchitoches on American soil. Pike was for a time under suspicion after his return, because of supposed complicity in Wilkinson's plans, but nothing was proven against him and he became a brigadier-general. He was killed while leading an attack on York, Upper Canada, in 1813.

Pike said that one great advantage of the Great Plains would be "the restriction of the population to some certain limits. Our citizens being so prone to rambling and extending themselves on the frontier will through necessity be constrained to limit their extent on the west to the borders of the Missouri and the Mississippi, while they leave the prairies, incapable of cultivation, to the wandering and uncivilized Aborigines."

The war with England absorbed the energy of the country so that these early explorations were not followed up at once. The west and northwest acquired from Louisiana continued to be the home of the hunter and trapper. They did not desire immigration, because the settling of the country meant the driving of the game farther into the wilderness. The hunters were a fearless, hardy, self-reliant race of men who lived months at a time in the mountains, bidding defiance to the Indians, wild beasts and the elements. Through them came a scanty and exaggerated knowledge of the West, but their stories were generally of such a character that no inducement was held out to the emigrant, but the government from time to time sent out exploring expeditions. Others were undertaken by railroad companies desiring to find the most practicable route across the continent; still others were private ventures.

One of these explorers was Captain Bonneville, whose explorations extended over the period from 1832 to 1836, and

gave much reliable knowledge of the Missouri, the Platte, Great Salt Lake, and the head waters of the Yellowstone.

Another explorer was Jean Nicolas Nicollet, who investigated the great basin in which Red, Arkansas, and Missouri Rivers rise, and in 1836 explored the source of the Mississippi. His work added greatly to the knowledge of the productions and natural resources of these sections. On his return, he was engaged by the war department to visit the far west and make a report on that region from the upper waters of the Missouri to the British line. On this expedition he was accompanied by John C. Frémont, who, next to Lewis and Clark, merits the title of The Pathfinder. While his work was mainly directed to the lands beyond the Rockies, yet his repeated journeys through the Louisiana Purchase territory and the great interest aroused by his work did much to open up the West.

The object of Frémont's first expedition, after his journey with Nicollet, was to obtain knowledge of the vast unexplored interior, of the Indians, especially in Nebraska, of a south pass through the Rocky Mountains, and a way to Oregon. On this expedition he planted the American flag on the peak which bears his name, which is the highest point in the Rocky Mountains, thirteen thousand feet above sea level. On his return to Washington he made such a favorable report of the country explored that settlers soon turned their attention in that direction. His second expedition, which started in May, 1843, went farther to the south. On September 6, 1843, he came in sight of Great Salt Lake. "His investigations corrected many vague and erroneous ideas about this region, of which no accurate account had ever been given and had great influence in promoting the settlement of Utah and the Pacific States."

Frémont described the region around Salt Lake as one in which there was an abundance of good water and timber, well adapted to agriculture, and he recommended it for settlement. It was his report which turned the attention of the

Mormons to Utah as a place for establishing themselves and led to the founding of Salt Lake City.

An expedition undertaken by Frémont in 1848 resulted in establishing the route later followed by the Southern Pacific Railroad. In 1853 he fitted out an expedition at his own expense and crossed the continent on the line of the thirty-eighth and thirty-ninth parallels of latitude and reached California.

Journeys overland to California or into the interior now became frequent, and the settler followed the explorer and pioneer. The scenes which were familiar in Kentucky and Tennessee a half century before were now repeated, except that the greater number of the emigrants made the Indian resistance less formidable.

CHAPTER XIV

THE ADMISSION OF LOUISIANA

AFTER the completion of the Louisiana Purchase the United States found itself in a peculiar position. How should the recently acquired territory be governed? There was no precedent to follow because the Northwest Territory had been included within the limits of the nation when the Treaty of Peace with Great Britain had been consummated. The promise had been made in spite of great opposition in Congress "that the people of the newly acquired territory should be incorporated in the Union of the United States and admitted as soon as possible according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."

The question was complicated by the character of the population. It is probable that a majority of the whites were French; there were some Spaniards and a rapidly increasing number of immigrants from the Southern and Western States, who flocked into the newly acquired territory as soon as it came into possession of the Union. There were large numbers of negro slaves, and, scattered here and there over the vast territory, were thousands of Indians. The French formed the most important and influential element and they now wished to see the United States fulfil its promise according to the French interpretation of it. But the national government evinced a disposition to proceed

slowly in giving them the desired liberty. The expression "admitted as soon as possible according to the principles of the Federal Constitution" was very vague, perhaps purposely so. The interpretation of it was in the power of Congress, and, for the good of the new possession, it seemed best to go slowly and give the people of Louisiana only the liberty which they were able to use to advantage. Congress was mindful of the various experiences in government through which these people had passed, and that in the different kinds there had been no self-government. As a people the Louisianians were not familiar with Anglo-Saxon institutions and laws. They were, however, much more intelligent and better fitted for sharing in the administration of the government than were the French in the Illinois country. Many of the French in New Orleans were men of wealth and culture, who welcomed the transfer of their country to the United States, because they believed that the change would bring them a better government.

The citizens of the United States, who emigrated to Louisiana after the purchase was made, believed that the government would be the same in Louisiana as in the States which they had left. These immigrants united with the French in insisting upon a liberal government.

This mixture of population made the problem of government much more difficult than it was in the Northwest Territory, because in the latter the people were almost entirely from the east and had been accustomed to self-government. The few French in the northwest desired only to be let alone.

The Congressional debate over the government of Louisiana is of especial interest, not only because of the skill and wisdom shown in the course of the discussion, but also because it marks a step forward in the development of the territorial policy of the United States. A committee of four was appointed to prepare a bill for the government of the Territory. The bill brought in by this committee proposed that two Territories be formed out of the newly

Treaty
Between the United States of America
and the French Republic

First and last pages of the treaty transferring Louisiana from the Republic of France to the United States of America. *From the original in the Department of State, Washington.*

Done in Paris the ninth day of Thermal in the
thirteenth year of the French Republic, and the 30th
of April 1801

[illegible] [illegible]

[illegible]

[illegible] Monroe

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acquired land, the division line between the two to be the thirty-third degree of north latitude, extending from Mississippi River to the western bounds of Louisiana. The land north of this line to form the District of Louisiana, and to be governed, in general, in accordance with the provisions of the Ordinance for the government of the Northwest Territory. For administrative purposes this northern section was to be joined to the Territory of Indiana. The governor and judges of this Territory were to exercise jurisdiction in the District of Louisiana, though it was not incorporated into Indiana Territory.

This arrangement would give to the officials of Indiana Territory control over an immense area in which there were but few people. Great tracts, large enough to form good sized States, were destitute even of Indians. The scattered whites had little need for the interference of the law-making power, and, moreover, Indiana was too remote from much of the "District of Louisiana" to make this regulation a matter of much importance.

According to the bill for the government of the newly acquired land, the section south of parallel thirty-three was to be called the "Territory of Orleans." The government of this part of the purchased land was the difficult problem. Instead of widely scattered Indian tribes, with here and there a few hunters and trappers, a thickly settled, rapidly growing country must be ruled. It was felt that here the Ordinance of 1787 would not apply without essential modifications. The Republicans believed that the national government had power over Territories which it did not have over States and that the president could exercise an authority over the Territories similar to that exercised by European rulers. They believed that this would apply especially to the Territory of Orleans because of the peculiarities already mentioned. In accordance with this idea, the bill submitted to Congress provided for a government much less democratic than that of the Northwest Territory. The governor and secretary were to be appointed by the president, the

former to hold office for three years, and the latter for four. These two, with a Legislative Council consisting of thirteen members, also appointed by the president, made up the Legislative Assembly. These thirteen men with the governor and the secretary had the power of appointing such courts and justices as they might think wise.

The proposed bill did not give the people any voice in the selection of the men who were to be members of the Council. The Council had no power to amend a bill placed before it by the governor; it could only accept or reject it. The members of this body were further reduced in their efficiency by the fact that their salaries stopped when they were not in actual service, and the governor could send them home when he chose to do so. These restrictions on the privileges which had belonged to the American immigrants in the States from which they came made the bill obnoxious to them. The citizens from the Southern and Western States were further aggrieved by the restrictions on the right of trial by jury. This right was restricted to cases where the sum involved was at least $100. The French also disliked the bill because it interfered with slavery. These matters were all warmly and intelligently debated in Congress.

The need of legislation was evidenced by a memorial presented to the House of Representatives by merchants of the City of New Orleans, February 20, 1804, stating the great inconveniences under which they labored, through the want of an extension to them of the laws of the United States. They were yet subject to duties on their exports and imports, according to the Spanish tariff, and for want of proper papers, their vessels and ships were laid up and their trade was in jeopardy.

Unfortunately we do not possess the Senate debate on this subject, but the speeches in the House, where the matter was fully considered, give us both sides of the question. It is one of the ablest debates of the period, and is of more than passing interest because the question

considered was similar to one which caused much discussion nearly a century later, when the matter of the acquisition and government of the Philippine Islands was being considered by Congress. In both cases a people accustomed to a despotic government, with no training or understanding of American institutions, came under the control of the United States, and in both cases they were not consulted about the change of authority, or about the way in which they should be governed. The views expressed in the debates are quite similar, as the principles involved were the same, and the speakers of 1803 and 1804 do not suffer by comparison with their descendants.

In this long debate over the government of Louisiana there was much opposition to the arbitrary authority which was placed in the hands of the governor and the lack of any opportunity for the people to express their wishes. Various replies were made to this opposition; all may be summed up by saying that the people were given all the power which they knew how to use.

There was great objection to the Territorial Council. It was asserted that it was so dependent upon the governor that it would be better not to have such a body. Too much power was placed in the hands of the governor and it is a mere form to say that the appointment was in the hands of the president, because the only way in which he could get any information was through the governor or his appointees. The proper way to appoint the legislative body was through the people and only in this way could the treaty obligations be fulfilled. The rule by the governor and council was regarded as a violation of the treaty because it gave the people nothing to say about the way in which they should be governed.

In answer to the objection that the people of Louisiana were not qualified for self-government it was said that "they have a right by nature and treaty to have some concern in their own government. We may not be willing to put them on the same footing with the people of a free and

independent State, but they should be allowed by their representative to come before the governor in an organized way with an expression of their wishes and wants and to propose such laws as they think fitting for the government of their country. If the governor has the right of proroguing the Assembly and an unqualified negative on every bill, the representation of the people could do no harm. The appointment of a legislative council by the president is an insult to the people. It does not fit his character, but is a work which could be better done by Mr. Bonaparte. It is ridiculous to say that they must be kept in slavery until they have learned to think and behave like free men. They have already endured this probationary slavery longer than was good for them. How are we to know when slaves are fitted to become free men?"

The question was asked, what kind of government was best for the people, and the answer was, one which has been tried successfully. It was stated that "the best way to make these people attached to the United States is to conciliate them to us, and to our manners and laws: and to show them that they are considered a part of the Union, and that they have a right to expect the enjoyment of privileges which were before denied them. It is not proven that they are unable to govern themselves; probably one-fourth or one-fifth of the population is made up of American citizens, and there are also many British subjects. It would not be right to give liberty by degrees. There is never danger in giving too much of it. If we attempt anything of that kind the world will say that in spite of our declaration that all men are equal, and that governments derive their rightful power from the consent of the governed, we exercise despotic power on our first opportunity, under the pretense that the people are not capable of governing themselves."

It was further said that "giving these people their just rights will not make them enemies of the government. This is as impossible as for streams to turn backward or sparks

to cease to fly upward. They will be so circumscribed that no possible harm can come from giving them the elective franchise. The executive and military power will remain absolutely in the hands of the national government. The appointment of the Council would be an extension of executive patronage beyond what is necessary, and if the nation is to follow the destiny of other nations, it will be accelerated by the overwhelming torrent of Executive patronage."

Those who were in favor of this form of rule by means of governor and executive council replied that "although it was a kind of government which had never been known in the United States, it was necessary because the people to be governed differed materially from those in the United States; that the provisions of our institutions were inapplicable to them. It would be foolish to extend to them political privileges which they could not understand. When they become better acquainted with the principles of our government and desire to participate in our privileges, it will be time to extend to them the elective franchise. It is useless to ingraft on a people the principles of civil liberty suddenly when they have been accustomed to a rule directly opposite to that. Their approach to liberty must be gradual. At present they are totally unqualified to exercise it. They might consider it a burden if they were asked to vote. There is nothing of the equality which exists in the United States; grades are very highly marked and they may deem it rather a matter of oppression if the privileges which we consider inestimable are extended to them. Their relation to the United States is essentially that of a conquered country. They have the right to be admitted to the Union but not yet. The government is only temporary and we are at liberty to change it when we get more information."

It was argued by the supporters of the administration that the bill really secured to the people of Louisiana more liberty than that to which they had been accustomed under the rule of France and Spain; for instance, they had never enjoyed the privilege of habeas corpus under the old régime.

The people of the new possessions had been governed by the whims of Spanish officers, and it was no reflection on them to say that a people accustomed to a military despotism was not prepared to suddenly receive the principles of our government. "These people can be made happy without extending to them all our privileges. What they need is not the extension to them of the theory of liberty, but the just operation of equal laws, and, if they could obtain practical justice, they would care little about our elementary political principles. The Council was rightly appointed by the President so that the government was not completely in the hands of the Governor."

The benefits which would come to the people of Louisiana were presented at considerable length: The people who had just thrown off their chains were not qualified to make laws. Law-making is a difficult process and these people knew nothing about the Constitution. They would be a hindrance in law-making. The object of the act was to extend the laws of the United States over Louisiana, not to enable the people of Louisiana to make the laws. So that this act instead of being despotic conferred important privileges. None but a virtuous and enlightened people is capable of self-government and the people of Louisiana were not yet ready for it. They were prepared to remain in a passive state and to receive the blessings of the good laws; and if they receive these, they have no reason to complain. But even this bill would place them in better condition than those who were under the first grade of territorial government, because, under the first grade, the governor and judges have all the power, while here it is shared by thirteen counsellors. It would be time to give the people more power when they understood the principles of a free government and had a stronger attachment for the Union.

There were several changes in the draft of the bill, but its general features remained. It was finally passed, March, 1804, and gave to these people, to whom had been promised

liberty and equality, a government as despotic as anything that they had ever endured from Spain, but fortunately this provisional government was limited to one year. The men appointed to fill the executive positions were not qualified for them and the task of finding men who would accept positions as members of the Legislative Council proved to be very difficult; but this was after a time accomplished and the new government began its work.

Claiborne and Wilkinson despised the Creoles over whom they ruled and made no attempt to understand their language or institutions. This feeling of dislike was cordially reciprocated by the Creoles. The Spanish language disappeared from the courts, and American lawyers tried to administer Spanish law about which they were profoundly ignorant.

The Legislative Council convened in New Orleans in December, 1804, and in the same month a remonstrance was laid before Congress by the leading citizens of Louisiana. This instrument recited the joy which they felt at the time of the cession because there was held out to them the prospect of soon becoming American citizens. This implied to them all that they could desire, and, among other blessings, the privilege of a free representative government. Many inconveniences had followed the transfer, such as a single magistrate with absolute power, the suspension of the forms of law to which they were accustomed, the introduction of a new language into the administration of justice and the errors which resulted because the judges did not know by what code they were to decide and were uncertain whether to follow the French, Spanish, or American forms of jurisprudence. They had submitted to all these annoyances, thinking them a necessary part of the transfer, but the law finally passed for the government of the Territory was contrary to the letter and spirit of the treaty. It did not incorporate them into the Union, nor did it give them the rights and immunities of American citizens, and it was inconsistent with every principle of civil liberty. The

law was in direct opposition to the principles enumerated in the Declaration of Independence. It was taxation without representation, an obligation to obey laws in whose forming they had no voice. It meant the undue influence of the executive and a dependent judiciary.

They claimed that they should not be excluded from these privileges because they had not hitherto enjoyed them; that should rather be a reason for haste in giving them. There was no promise of what might happen when the year of despotism should be over. The people had been greatly misrepresented as to their ability to make a proper use of freedom. It would be impossible for the President to select the right men for councillors. It would be much better to have these officials selected by the people themselves, who were the best judges of what they needed. The stories that the people were so ignorant that they could not govern themselves were base calumnies. There were many in the Territory who had been citizens of the United States; others who were among the first settlers were men of property, rank, and liberal education. The first establishment of Louisiana was on an equality with any other settlement in America as regards the respectability and information of those who composed it, and their descendants had not degenerated. The people were law-abiding as shown by the way in which they had passed through the late change of ownership.

It was the opinion of those making this remonstrance that the division of the Territory into two parts would better have been deferred till a greater population made it necessary. The prohibition of the African slave trade was a great injustice; this matter should have been left for the Territory itself to decide, for the prohibition entailed peculiar hardships upon Louisiana because of its tropical climate, and more than that, "the waters of the Mississippi need to be kept in by banks which can only be repaired by those whose natural constitution and habits of labor enable them to resist the combined effects of a deleterious moisture

and a degree of heat intolerable to whites. This labor is great, requires many hands and is important to the very existence of our country. Unless this is permitted, cultivation must cease and the great river resume its empire over our ruined fields and demolished habitations."

The petitioners did not think that these evils had been brought about through any desire on the part of the United States to be oppressive, but only on account of insufficient information and prejudiced reports, and that the nation would quickly right these wrongs as soon as they were made known.

These complaints were considered by Congress and as a result the people of the Territory of Orleans obtained a government like that of the Territory of Mississippi. This placed Orleans on the same footing as the other Territories. The people of the Territory were promised that Orleans should become a State when its population became sixty thousand.

This reorganized government, established March 2, 1805, was composed of a governor holding office for three years and a secretary of state for four, both appointed by the president, subject to the approval of the Senate; of a Legislative Council made up of five men, chosen by the president from candidates presented by the House of Representatives of the Territory, and a House of Representatives consisting of twenty-five members elected for two years by the people.

During the Territorial period a large number of penal laws were enacted, of which the following are worthy of notice: Stealing a slave, horse, or mule was punished by flogging and hard labor. The penalty for petty larceny was also flogging. Anyone guilty of forgery was to be condemned to hard labor for life. Perjury was punished by hard labor for a term of years and being placed in the pillory for two hours once in each year of imprisonment. Whoever in a quarrel deprived another of nose, tongue, eye, or ear might be made to pay a fine of $1,000 and be

sentenced to seven years of hard labor. Duellists were punishable by a fine of $500 and imprisonment for not more than two years.

Another interesting law related to vagabonds. A vagabond was defined as a person who, being able to work, lived in idleness without any settled habitation; or one who frequented drinking or gaming houses, and refused to give an account of his means of living, or could not bring credible witnesses to testify to his character. Vagabonds were required to give bonds for their good behavior, and if unable to do so, might be imprisoned for a month at hard labor. Anyone harboring a vagabond was liable to a fine not exceeding $500.

The Black Code is of special interest because it shows the effort of the Territorial Legislature to protect the negro from inhuman treatment by his master. Some of the more significant provisions of this code which required humane treatment of the slave were these: Each slave must have a barrel of corn and a pint of salt per month; a shirt and a pair of cotton pantaloons for the summer; a flannel shirt, a pair of woolen pantaloons, and a cap for winter, and a piece of ground to cultivate. Masters were required to care for the infirm, aged, and the blind. Children under ten years were not allowed to be sold apart from their mothers.

A master who ill-treated his slaves, or refused them necessary food and clothing, might be prosecuted on the information of one or more persons before a justice of the peace, and be condemned to pay a fine of $25 for every such offence. A master punishing his slaves with barbarity was liable to a fine of from $200 to $300.

There are also sections in the Black Code which show the constant fear on the part of the whites that a revolt might occur among the slaves. Slaves were forbidden to carry arms, or to hunt without permission from their masters. Any person finding a slave at a distance from his master's plantation might stop him and punish or even kill

him, in case he resisted. A slave intentionally wounding his master or mistress or their children was punishable with death. A slave who rebelled or incited an insurrection was to be hanged. A slave detecting a plot or insurrection and giving information of it was to be rewarded with freedom. A slave found guilty of striking a white person for the third time was punishable with death.

When the census of 1810 was taken it was found that Orleans had a population of seventy-six thousand five hundred and fifty souls. On February 11, 1811, Congress authorized the election of a convention to adopt a Constitution preparatory to the admission of the Territory of Orleans into the Union as the State of Louisiana.

This convention, consisting of sixty delegates, met and adopted a Constitution modelled in general upon the Constitutions of the States which had been previously admitted. It closely resembled the Constitution of Kentucky but was less democratic. The governor must be thirty-four years of age and hold a landed estate to the value of $5,000. No minister of any religious society was eligible to this office. A senator must be twenty-seven years old, a resident of the State for four years preceding his election, and must hold property to the value of $1,000 in the district in which he is chosen. The salary of the members of the General Assembly was four dollars a day while in session. Section 22 read: "No person, while he continues to exercise the functions of a Clergyman, Priest, or Teacher of any religious persuasion, society or sect, shall be eligible to the General Assembly, or to any office of profit or trust under this State."

When the Territory of Orleans applied for admission there was some question as to granting its request because of the indefinite nature of the boundary between it and the Spanish possessions, but the principal objections came from Josiah Quincy, of Massachusetts. He believed that the passage of this bill would be a virtual dissolution of the Union. "It would be the right of all and the duty of some

definitely to prepare for a separation, amicably if they can, violently if they must." It seemed to him unconstitutional, because the makers of the Constitution did not contemplate the inclusion of additional territory. Taking this new associate into the partnership of States would mean a decrease in the relative power of each of the original partners and there was nothing in the Constitution which permitted this giving away of the power to strangers. He said that the three branches of the government had no right to weaken the influence secured to each State by introducing new partners from beyond the old limits of the United States. If this principle should be once admitted, this power will be exercised over all the extent of Louisiana. The term "New States" in the Constitution referred only to those to be formed within the original limits of the United States.

He feared that, if this State and others from the purchase should be admitted, the proprietors of the good old United States would not be able to manage their own affairs but would be trampled under foot by foreigners. "This Constitution never was and never can be strained to lap over all the wilderness of the West without essentially affecting both the rights and conveniences of its real proprietors. Wherever it is attempted to be stretched over them it will rend asunder." Quincy then referred to the need of keeping up the balance of power between North and South, so carefully planned by the makers of the Constitution. "They were not madmen;" he said, "They had not taken degrees at the hospital of idiocy." "You have no authority to throw the rights and liberties and property of this people into a 'hotch-pot' with the wild men on the Missouri, nor with the mixed, though more respectable race of Anglo-Hispano-Gallo-Americans who bask in the sands, in the mouth of the Mississippi."

Quincy also objected to this stretch of the treaty-making power; but in spite of his ability as an orator and his prophecy of the dire results which would follow, the bill

became a law and Louisiana was admitted to Statehood, April 8, 1812.

Soon after the admission of Louisiana into the Union, a supplemental act passed Congress by which the Florida parishes were included within the State.

In June, 1812, the first election was held and William C. C. Claiborne was elected governor of the new State.

CHAPTER XV

THE ADMISSION OF INDIANA AND ILLINOIS

AFTER the separation of Ohio, the Territory of Indiana went back to the first stage of Territorial government. In 1804 it passed to the second stage. By 1815 the population had reached sixty thousand and the people desired admission to the Union as a State. At the session of the Territorial Legislature in 1815, a petition was sent to Congress asking for an Enabling Act. In response to this petition, Congress passed such an Act, April 19, 1816. This Act provided that the people should elect delegates who might form a Constitution if they thought it expedient to organize a State government.

According to the terms of the Enabling Act, which was accepted by the Constitutional Convention, it was declared that the new State should be "bounded on the east by the meridian line which forms the western boundary of the State of Ohio, being a north line from the mouth of the Miami; on the south by the Ohio River, from the mouth of the Great Miami to the mouth of the River Wabash; on the west by a line drawn along the middle of the Wabash from its mouth to a point where a due north line drawn from the town of Vincennes would last touch the Northwestern shore of said river, and from thence by a due north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by the said east and west line until the same shall intersect the first mentioned

meridian line which forms the western boundary of the State of Ohio."

This boundary was apparently clear and definite, but it did not agree with the line established by Congress in 1800 when Indiana Territory was separated from the Northwest Territory. The dividing line in the Act of 1800 began "at the Ohio River opposite the mouth of the Kentucky River and running thence to Fort Recovery and thence north until it shall intersect the territorial line between the United States and Canada." The difference between the two lines is due to the fact that the mouth of Kentucky River is several miles west of the Great Miami. The line of 1800 was not directly north and south. It would have given Ohio a strip from the southeastern part of Indiana and would have added to Indiana some of Ohio's territory north of Fort Recovery. The line of 1816 coincided with that established by the Ordinance of 1787 which made the line between two of the States extend north from the mouth of the Great Miami.

Indiana also had a boundary dispute with Michigan due to the Act of Congress on January 11, 1805, by which Michigan was set off as a separate Territory. The bounds of Michigan according to this Act were "all that part of the Indiana Territory which lies north of a line drawn east from the southerly bend of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States."

The boundary of the State of Indiana subtracted somewhat from the territorial limits of Michigan, but as Michigan was still a Territory, and, therefore, under the entire control of the United States, its protests were not heeded, and Indiana continued to exercise jurisdiction.

There was much discussion of the slavery question before the Convention came together, many fearing that an opportunity would be made to gain the legal admission of slavery.

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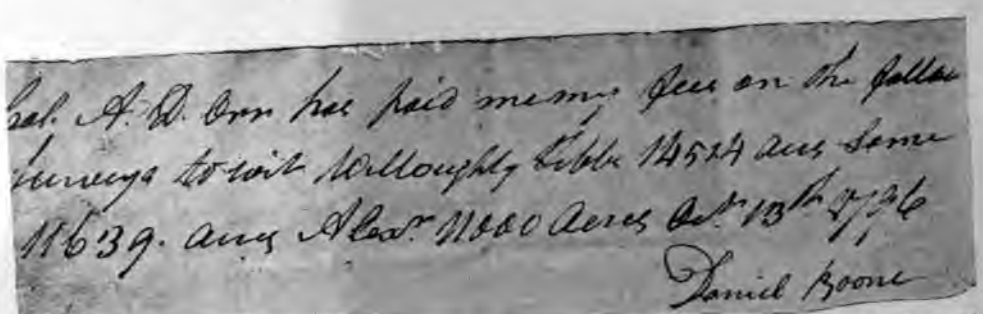

[illegible] A. D. Orr has paid me my fees on the following
surveys to wit Willoughby Tibbs 14514 acres Same
11639. acres Alexr 11000 acres Octr 13th 1796
Daniel Boone

Documents signed by Daniel Boone. *Originals in possession of the Wisconsin Historical Society and of the Missouri Historical Society.*

On June 10, 1816, the Convention assembled at Corydon, at that time the capital of the Territory. The Constitution as adopted did not differ greatly from those formed by earlier States. The main discussion was upon slavery, and after some debate and several attempts to add pro-slavery amendments, the wording of the Ordinance of 1787 was adopted with the addition "nor shall any indenture of any negro or mulatto hereafter made and executed out of the bounds of this State be of any validity within the State." This clause was added to the prohibition of slavery contained in the Ordinance so that slavery might not be introduced under the form of hiring.

The governor's term of office was fixed at three years, but no one person could hold the office longer than six years in a period of nine years. The Constitution provided for a popular vote every twelfth year on the question of calling a convention to revise the Constitution; the right of suffrage was given to white male citizens of the United States of the age of twenty-one years and upward after a residence of one year in the State.

In addition to the prohibition of slavery it was provided that no alteration of the Constitution should ever introduce slavery into the State. It was provided that no banks could be chartered except a State bank and branches. Corydon was made the seat of government until some other place should be legally designated. Slaveholding continued in Indiana because of the general belief that the prohibition did not affect those who were already slaves. They were publicly bought and sold, but the entire number held was very small. In 1820 there were only one hundred and ninety reported for the whole State. The number in 1840, according to the national census, had been reduced to three.

In accordance with a joint resolution of Congress Indiana was admitted into the Union on December 11, 1816. The new government began its career by the choice of Jonathan Jennings as the first governor and the organization of the various departments provided for by the Constitution.

After the admission of Indiana to the Union there was a very rapid increase in population. In the four years from 1816 to 1820 the population increased from about seventy thousand to more than one hundred and forty-seven thousand.

The State was now freed from the harassing Indian wars which had retarded its growth and development, and entered upon its career of prosperity.

In January, 1818, the Territorial Legislature of Illinois passed a resolution requesting Hon. Nathaniel Pope, delegate in Congress, to present the petition of the legislature to Congress for such congressional action as would allow Illinois to become one of the States of the Union. On the 18th of April, Congress passed the necessary Enabling Act. In this case the population required for admission was forty thousand instead of the usual number, sixty thousand.

Preparatory to its admission to the Union as a State, a census of Illinois was ordered by Act of the Territorial Legislature on January 7, 1818. This was necessary in order to ascertain whether the Territory had the population required by the Enabling Act. This enumeration was to be taken between April 1st and June 1st, 1818. Three days later the Illinois Legislature passed a supplementary Act regarding the census, which provided that in view of the great increase in population which would probably occur between June 1st and December 1st, the commissioners were directed to take a census of all persons who might come into the respective counties between these dates, if Congress did not allow the Territory to be admitted without it.

Regardless of the provisions of the Ordinance of 1787, the boundary was changed. Mr. Pope introduced an amendment to the bill before the House of Representatives which altered the boundaries of the proposed State so that they were to be: "beginning at the mouth of the Wabash River; thence up the same, and with the line of Indiana to the northwest corner of said State; thence east with the line of the same State to the middle of Lake Michigan; thence

north along the middle of said lake to north latitude forty-two degrees thirty minutes; thence west to the middle of the Mississippi River, and thence down along the middle of that river to its confluence with the Ohio River; and thence up the latter river along its northwestern shore to the beginning."

This change was proposed because an outlet on Lake Michigan would afford additional security to the perpetuity of the Union, for thereby Illinois would be connected with the States of Indiana, Ohio, Pennsylvania, and New York through the Lakes, and it was considered an easy matter to open a canal between Lake Michigan and Illinois River. The proposed change would give the New State the port of Chicago on the Lake. There is no question but that this change in the boundary line had much to do with the prosperous growth of the State. In the first place it added a considerable territory which would have otherwise gone to Wisconsin. The land added included the fourteen northern counties, making an area of eight thousand five hundred square miles made up of some of the richest farm lands in the State. This section was destined to become a place of wealth and business activity, a portion of the State in which there arose prosperous and busy cities, including the greatest city of the West, Chicago. "But for the amendment, this city would have been Chicago, Wisconsin, instead of Chicago, Illinois; and Illinois would have become a State of small importance compared with what it is at present. Whether Illinois had more or less territory or whether Chicago was in Illinois or Wisconsin is a matter of greater importance than appears at first. The relation of the State to national questions depended largely upon its commercial relations. This outlet through the lakes gave the State a close business connection with the north and east as its situation on Mississippi and Ohio Rivers gave it unsurpassed facilities for communication with the South. It is very probable that Illinois remained in the Union at the time of the Civil War because of this connection

with the east through the lakes. The southern part of the State was strongly pro-slavery in sentiment, but the northern tiers of counties had been filled up with men from the east and there were enough of these to counteract the disunion tendencies of the Secessionists. What the result would have been, had Illinois thrown the weight of its great influence in favor of disunion, is now difficult to determine, but it is certain that the struggle to keep the national unity would have been a much more difficult one.

The Constitution was modelled in general after that of the older States but with a disposition to keep the power out of the hands of the people. The instrument itself was not submitted to the people for their acceptance or rejection.

Some features of the Constitution worth noticing are these: Nearly all the State governors had a limited veto upon the Acts of the General Assembly. This was not so in Illinois. Instead of giving this power to its governor, a council of revision was appointed, composed of the governor and the judges of the Supreme Court or a majority of them, whose duty it was to revise every bill about to be passed into a law by the General Assembly. If the council approved the bill, it at once became a law, but if the majority of the council disapproved, the bill was returned with the objections of the council to that branch of the legislative body in which it had originated. If the bill again passed both Houses, it became a law without regard to the objection of the council. It will be seen by this that the governor had little to do with law making, his power in this respect amounting only to giving advice to the General Assembly.

The justices of the Supreme Court and the judges of the inferior courts were to be appointed by joint ballot of both branches of the General Assembly.

Imprisonment for debt was prohibited. It was made the duty of the General Assembly to enact such laws as might be necessary to put a stop to the practice of duelling.

The marked feature of the Constitution was the power it placed in the hands of the General Assembly. The law

making was wholly in the power of that body with nothing but an advisory veto from the governor. The General Assembly could appoint the judges, and, what led to much trouble, they had the power to establish and regulate a State bank and its branches.

The Constitution did not prohibit slavery, but provided in Section 1, that, "Neither slavery nor involuntary servitude shall hereafter be introduced into this State otherwise than for the punishment of crimes, whereof the party shall have been duly convicted, nor shall any male person arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such persons shall enter into such indenture while in a state of perfect freedom and on condition of a bona fide consideration received or to be received for their service, nor shall any indenture of any negro or mulatto hereafter made and executed out of this State, or if made in the State, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeship."

Section 2. "No person, bound to labor in any other State, shall be hired to labor in this State, except within the tract reserved for the Salt Works near Shawneetown, nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year 1825. Any violation of this article shall effect the emancipation of such person from his obligation to service."

Section 3. "Each and every person who has been bound to service by contract or indenture in virtue of the laws of Illinois Territory, heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws shall serve out the time appointed by said laws, provided, however, that the children hereafter born of such persons, negroes or mulattoes, shall become free, the males at the age of twenty-one,

the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child."

This clause, it may be noted, was not in accordance with the spirit of the Ordinance of 1787 which plainly declared that "There shall be neither slavery nor involuntary servitude in said territory otherwise than in the punishment of crimes, whereof the party shall have been convicted."

The Illinois Constitution gave the right of suffrage to all white males over twenty-one years old after a residence of six months within the State. The governor's term of office was fixed at four years and provided against his immediate reëlection. The seat of government was fixed at Kaskaskia.

When the subject of the admission of Illinois to Statehood came up for discussion in the National House of Representatives, two questions were asked. Spencer, of New York, wished to know whether it was clear that Illinois had the requisite number of inhabitants, to which Anderson, of Pennsylvania, speaking for the committee to which the matter of admission had been referred, replied that the committee had no information on the subject beyond what was contained in the preamble to the Constitution, which stated that the requisitions of the Act of Congress had been complied with, and the committee considered that evidence sufficient. Mr. Anderson was convinced from what he had himself seen in the newspapers that the population did amount to forty thousand souls.

Tallmadge, of New York, objected to the admission because of the uncertainty regarding the number of people in the Territory, but mainly because of the failure of the Constitution of the new State to prohibit slavery. He called attention to the fact that the Sixth Article of the Constitution in each of its three sections was contrary to the Ordinance of 1787. These three sections recognized slavery as it existed in Illinois. He referred to the Constitution

of the State of Indiana in which slavery was carefully and scrupulously guarded against. After considerable discussion Illinois was admitted with a Constitution which did not prohibit slavery but put a stop to its future development. This settlement of the slavery question was not satisfactory. It made Illinois a free State but only in a qualified way. Slavery could still continue but it never could become an important institution. That slavery was recognized became evident in the "Black Code," passed by the first General Assembly of the State, on March 30, 1819. Some of the provisions of this code were as follows: Any person who brought slaves into the State with a view of emancipating them was compelled to give bonds of $1,000 that the slaves should not become public charges. To harbor a slave or to hinder the owner in retaking his slave was made a felony punishable by a fine of twofold the value of the slave and a whipping not to exceed thirty stripes. Any negro not having a proper certificate of his freedom was deemed a runaway slave subject to arrest. A slave found ten miles from home was subject to arrest and to be punished by thirty-five stripes. Persons participating in unlawful assemblies of slaves or servants were to be punished by thirty-nine stripes. In all cases where white men were punished by fines, slaves were punished by whippings.

The people of southern and central Illinois did not take kindly to the provision of the Constitution which made their State virtually a free State. The Missouri compromise resulted in the admission of Missouri as a slave State in 1820, and as a result large numbers of slave owners from the South with their property passed through Illinois on their way to their new homes. Southern Illinois was bordered on two sides by slave territory and its people were in sympathy with slavery. It was, therefore, with a feeling of resentment and loss that the inhabitants of southern and central Illinois perceived these customers for new lands passing through Illinois to settle in Missouri. This, they knew, was due to the fact that slavery was permitted across

the river, while the Illinois Constitution prohibited the introduction of slaves, and, therefore, the desire to make Illinois a slave State was increased. The change could be brought about only by amending the newly adopted Constitution. In order to do this it was necessary to get a two-thirds vote of the legislature to recommend to the people the calling of a convention.

By the use of unfair means the required two-thirds vote was obtained and then followed a campaign which, for violence and personal abuse, is unequalled in the history of Illinois. This campaign lasted for eighteen months. Personal combats were frequent between members of the opposite parties, and the State seemed on the verge of civil war. Stump speeches and newspapers were made use of on both sides. One of the ablest champions of the anti-slavery people was the Baptist minister, J. M. Peck, who rode all through the southern part of the State and raised his voice in opposition to the convention. Nor should the zealous and efficient labors of George Flower be forgotten. He had established an English colony at Albion, Edwards County, in 1817, and his promotion of agricultural development and his benevolence brought him great influence, which was eminently serviceable in the defeat of the attempt to introduce slavery into the State.

When the vote was taken in August, 1824, it was found that four thousand nine hundred and fifty ballots were in favor of the convention and six thousand eight hundred and twenty-two against it. Thus it was decided for all time that Illinois should be a free State. The influence of that decision on the fortunes of the Civil War is beyond estimation.

The last slavery decision was made by the Supreme Court of Illinois in December, 1845, to the effect that the descendants of the old French slaves, born since 1787, and before or since the adoption of the Constitution of Illinois, could not be held in slavery.

When the Constitution of 1848 was adopted, the slavery clause was in the language of the Ordinance of 1787.

CHAPTER XVI

CHARACTER OF THE NORTHWESTERN SETTLERS BEFORE 1830

THERE were many diverse elements in the makeup of the population of the Northwest. Among these, three were especially important. The first of these in point of age, though not of influence, was the French. There were large numbers of these people in the Illinois country and in Detroit and its neighborhood up to 1830. It is difficult, however, to determine the exact extent of French influence, but it was of continually decreasing importance as the French came in contact with the vigorous and pushing pioneers from New England and New York. The French were conservative and could not understand the newcomers, who were so much interested in politics, religion, and education, and above all else, in making money.

In southern Michigan, especially in Detroit and the district centring on it, the French element was divided into classes. At the head of society was that class composed of persons of aristocratic descent and of inherited wealth. These constituted an intelligent and refined element in the society of the territory. A middle class was made up of the French farmers who cultivated their lands in the vicinity of Detroit in the ways of their forefathers and with the same primitive instruments. The lowest social stratum was made up of the Canadian boatmen and hunters, who found their occupation passing from them with the increase in population and the decline of the fur trade.

A second element in the population of the Northwest consisted of the pioneers from New England and New York who were called by their French neighbors by the despised term "Yankee." Large numbers of these came into Ohio, southern and central Illinois and Indiana, and later into southern Michigan. These northern pioneers, especially the early comers, were men of Puritan stock, and kept up the Puritan traditions in politics, religion, and education.

The third important element in the population was made up of emigrants from the South. In many ways they differed from their neighbors who had come from the North. They settled in the southern part of Ohio, Indiana, and Illinois, and brought with them markedly southern characteristics.

It would be a mistake to suppose that the non-French immigrants were uniformly of English descent, or even that they, or their direct ancestors, all came from the British Isles. An analysis of the racial elements of the pioneers of Ohio, the first part of the Northwest to be settled, will show the erroneousness of the supposition. Among the early settlers we find representatives of nearly all the races of northern Europe. There were English of both the Puritan and the Cavalier types, Irish, Scotch, Scotch-Irish, Swedes, Germans, and Dutch. All or nearly all of these had been born on American soil, but had preserved the national and religious characteristics of their ancestors, and these peculiarities endured for some years because of the isolation of the different settlements and the difficulty of intercommunication.

There were distinct groups of settlements in Ohio, each with its own peculiarities.

At the southwest, between Great and Little Miami Rivers, was the Symmes Purchase. This was settled principally from New Jersey.

The Virginia Military District, situated to the east of the Symmes Purchase, had been reserved by Virginia as bounty land for its Revolutionary soldiers, and was settled

principally by Virginians. It was Virginian in sympathies and characteristics, except that there was no slavery. The people were Episcopalian in religion and in general brought in customs more like those of their English ancestors than any of the other settlers in Ohio.

The Ohio Company's district, with Marietta as the centre, was strongly permeated by New England influences. There were striking differences between these descendants of the Puritans and the children of the Cavaliers in the Virginian section; both were strongly English, but English institutions had attained their development in the one case differently from the other. In their religion, too, the differences were also marked, the Marietta people being strongly influenced by New England Congregationalism.

The part of Ohio nearest the Pennsylvania line was settled by people from that State of distinctive characteristics. Some of these settlers were Quakers, the descendants of those who had come over with Penn. Others were the descendants of Germans who had been later comers to Penn's colony, and they carried into Ohio the language and peculiarities of the Pennsylvania Dutch. The Germans were not an important element numerically.

In the northeast of Ohio was the Western Reserve, owned and settled by Connecticut, and thoroughly like its parent State in almost every way; so that the Western Reserve was appropriately called New Connecticut.

The section which became the States of Indiana and Illinois extended north and south four hundred miles, with the northern part in the latitude of New England, and the southern reaching well into slave territory. In the north the settlers were largely from New England and New York. Often men of wealth and generally of thrift, they made good use of the natural advantages of their location and built up prosperous communities. Much of the rapid growth of Illinois and Indiana in commerce, agriculture, and manufacturing is due to the wise use which these early pioneers made of their opportunities.

Southern Illinois and Indiana had a population made up of French, Pennsylvania Dutch, a few Scotch-Irish and some Germans, but the great majority of them were native Americans from the Southern States, especially Tennessee, Kentucky, and Virginia. There were scattered families from New York and New England, but their lives were not happy, because their neighbors from the South looked upon them with contempt and did not consider them fit persons for associates. They were regarded as mean and crafty and were continually under suspicion. Many of the immigrants from the South had come north of the Ohio, partly because of the desire to try their fortunes in a new country, and partly because they were very poor and had no manual labor in Kentucky and Tennessee; they hoped to escape here the humiliation of being "poor white trash." They formed a more or less transient class. Many of these men lived by hunting and fishing, and when they found that their circumstances did not improve, or the population became too dense, they moved on.

In addition to this less desirable Southern element there were men from the South opposed to slavery, who had come to southern Illinois and Indiana because they could here find fertile lands in a congenial climate. These men made up a permanent element in the population. They were small farmers or merchants, living, like the early settlers in Kentucky, in cabins of one or two rooms, and, when not on isolated farms, gathering in little villages of from twenty to two hundred people.

There were also a few of the southern immigrants who had not been slaveholders but wished to become such. They were generally careless, desirous of having a good time, despising the thrifty Yankee settler in the north and in turn were despised by him. The differences between north and south were therefore very strongly marked, and when there was a demand for the expenditure of money for improvements in the north, there was opposition from the south for fear that it might bring in more Yankees.

The views of these southern settlers on the slavery question, as we have already seen, differed in a marked degree from their fellow citizens in the northern parts of the same States.

These pioneers had entered the Northwest for the purpose of bettering their condition. They had been impoverished by the Revolution and hoped to gain a comfortable living on the fertile lands of the West. Before them were the usual pioneer hardships and the dangers which come to those who blaze the way into an unknown country. Some of these men were well educated, men of refinement and culture in the East, but, surrounded by the wilderness in which they had made their new home, there was danger that they might themselves become careless of the better things of life with all their finer instincts stifled in the hard struggle for subsistence. If their early training enabled them to overcome this danger, there was a probability that their children might retrograde in culture, but neither of these calamities occurred. The escape is due to the force of character of the pioneers themselves, and to the civilizing, refining influence of the circuit rider, the settled pastor, and the schoolmaster. With wise foresight, Manasseh Cutler and his fellow statesmen cared for religion and education in the future commonwealth. It is impossible to overestimate the influence of these two forces in laying the foundation of the future prosperity of the Northwest. No one denomination is entitled to all the credit for this work. The first settlers in the Northwest were New England Congregationalists. It might seem that Congregationalism with its flexibility and democracy would be specially fitted for frontier conditions, and that the advantage gained through the early settlement of New England Congregationalists would be followed up; but the members of that old New England sect had so little faith in its adaptability to frontier conditions that they freely gave their men and money for the organization of Presbyterian churches, apparently thinking that Congregationalism was not a workable polity west

of Hudson River. Ministers and churches were advised to become Presbyterian, and that it would be neither wise nor desirable to organize any Congregational churches, but in spite of this many Congregational churches were organized.

The Marietta settlement was established in 1788, but a church was not organized there until 1796. Of the thirty-two members all but one had been members of Congregational churches in New England.

Much of the spread of Congregationalism and Presbyterianism in the early years of the Northwest Territory was due to the missionary societies in New England, especially to that of Connecticut. The Connecticut Society was organized in 1798, and within thirty years two hundred missionaries had been employed and four hundred churches established in the new settlements.

It is from the records of the missionary societies of Connecticut and Massachusetts that we have our best descriptions of religious conditions in the early West. In the summer of 1812, John F. Schermerhorn and Samuel J. Mills commenced a tour through the western and southern parts of the United States under the patronage of the Massachusetts Missionary Society and the Missionary Society of Connecticut. They were instructed particularly to inquire into the religious and moral state of that part of the country. These men were occupied for about a year in the investigation and then reported to the two societies. The truth of their statements may be relied upon, but it should be remembered that they were trying to find out whether there was a need for missionary work or not, and that they brought out the dark side of the picture. But they found no greater depravity than could be found to-day in any of our New England States in the towns, which, through lack of infusion of new life and because of the departure of the young people of push and enterprise, have been left behind in the advance of their fellows.

Schermerhorn refers frequently to the swearing, drinking, horse racing, and gambling with which these westerners

desecrated the Sabbath. There were outbreaks of religious fanaticism, and it was a fruitful ground for sectaries of all kinds. But even when we consider the lack of education of many of these pioneers in the Northwest and their proneness to fanaticism, there was nothing so grotesque in their religious life as in some religious fads.

The report of the two missionaries causes us to wonder that the people were so well supplied with the means of cultivating the religious life. This was due in part to the splendid work of the Methodist circuit rider, that hardy, fearless pioneer whose labor in civilizing and Christianizing the Middle West has not received the credit due. The work was thoroughly organized, and the circuit riders, often ignorant when they began, went through a course of training and study which well prepared them for their work. These two young Calvinist missionaries, Schermerhorn and Mills, did not like the theology of the Methodists, but were compelled to bear witness to their fruitful work.

Methodism was splendidly fitted for pioneer religious work, first of all because of the enthusiasm of the circuit rider. He was a man with a message and nothing daunted him in the delivery of that message. If it was necessary for him to sleep in the wilderness or swim rapid rivers, he did so as a part of his regular work. He would travel miles to reach some little isolated community where he might form the people into a class with one of their own number as leader. The expenses of the itinerant minister were very slight because he was one of the people, without fastidiousness or expensive tastes. He preached a simple, earnest gospel which found a response in the hearts of thousands in their isolated lives. If his discourses were long and loud, accompanied by violent gestures, they met the tastes of the people. These early preachers delighted in presenting in their sermons such profound subjects as free will, justification, sanctification, perseverance, and election. They did not avoid the questions concerning the future destiny of those who died in their sins, but frequently presented in

their most vivid and violent language the torments of the wicked in unquenchable fire.

The circuit riders were powers for righteousness in these new communities, preaching the practical virtues and enforcing their teachings by appeals to the future life. They were men of intense earnestness in their own lives and preaching, fearlessly warning sinners and holding before them the wrath to come, but also ready to carry a message of comfort and hope.

The camp meeting, which was so prominent as a religious force south of the Ohio, crossed the river at the beginning of the century with the influx of settlers from Kentucky. The intensely emotional nature of the meetings and the physical manifestations of excitement, such as the shouts, groans, and tears, seem now very absurd, if not disgusting, to our more critical age. We should remember however that these camp meetings were the means of transforming the lives of thousands of men. Many men like James B. Finley, whom Stevens in his *History of Methodism* calls the typical itinerant, going to a meeting as rough, irreligious, irresponsible men, received there the impulses which changed them into Christian missionaries. The Methodist camp meeting north and south of the Ohio at the beginning of the nineteenth century was well fitted for its work and was another evidence of the wisdom of the pioneer Methodist organizers.

The founder of Methodism in the Northwest Territory was Francis McCormick. He was born and trained in the Virginia mountains, so that he was fitted from boyhood for pioneer work. McCormick repeatedly tried to get itinerants from Kentucky, but they could not be spared. Laymen like himself were founding the Church. McCormick was a class leader and people came for miles to attend his classes. His appeal for preachers was finally answered and on August 2, 1798, John Kobler preached the first sermon delivered in the Northwest Territory by a regularly constituted Methodist minister. On the 24th and 25th of December

Zebulon Montgomery Pike. *From the original by Charles Willson Peale, in Independence Hall, Philadelphia.*

he administered the Lord's Supper to a company of twenty-five or thirty communicants. This was all there were in the Territory at the time, so far as it is known. Kobler lived to see the Methodist Church in Ohio grow to a membership of one hundred thousand.

From Ohio, Methodism extended into Indiana, Illinois, and beyond the Mississippi. In 1802, the first Indiana Methodist Society was formed at Gassoway.

Methodism reached the Illinois country in the closing years of the eighteenth century. In 1793, Joseph Lillard formed a class in St. Clair's County; but this work was discontinued and not taken up again until 1804, when Benjamin Young began his work. He found the religious conditions bad, with "the bulk of the people given up to wickedness of every kind." The sins which especially impressed him were stealing, fighting, and lying; but he was not discouraged by the gloomy outlook. He held meetings which resulted in revivals, and formed a circuit with five classes of fifty members.

In 1806, Jesse Walker was appointed missionary to the whole Territory of Illinois. He was a man well fitted for his task because no hardships seemed too great for him, and he delighted to seek out the lonely, isolated settler. Often darkness found him without shelter, and then he passed the night alone in the wilderness.

Methodism extended slowly into Michigan Territory Some work had been done by itinerants before the outbreak of the War of 1812, but this had greatly interfered with that work, so that Joseph Hickox, who was appointed to the circuit in 1815, could find only seven Methodists in the city of Detroit. For the first year after his appointment he was the only Protestant preacher in the Territory, but when the war closed and the stream of immigrants poured in, there were many Methodists among them. Preachers soon came from the New York, Genesee, and Ohio Conferences, and followed the settlers wherever they went. There was no Protestant house of worship in Michigan until 1818, when a Methodist church was built near Detroit.

By 1825, there were in Illinois, Indiana, and Michigan forty preachers and fourteen hundred communicants. In 1832, the number had risen to eight preachers and sixteen hundred communicants in Michigan, forty-four preachers and ten thousand communicants in Illinois, and sixty preachers and twenty thousand communicants in Indiana.

The Baptists, with enthusiasm equal to that of their Methodist brethren, were also early in the field and founded congregations and preaching stations. Mills and Schermerhorn found the Baptists more numerous than the Presbyterians. The Baptists were among the early settlers in Ohio. In 1789, there was a company of them near the present site of Cincinnati. They had no ministers, but services were conducted by laymen. In 1790, the settlement was visited by Stephen Gano, of Providence, who assisted in organizing what is claimed to have been the first Evangelical church of this or any other denomination north of Ohio River. In 1797, there were three other Baptist churches in the neighborhood. In 1790, there were two Baptist churches and sixty-four communicants in Ohio; in 1812 the number had increased to sixty churches and two thousand four hundred communicants.

The beginning of the Baptist movement in Indiana is obscure, but it seems probable that the first church was organized in 1798. Ministers had labored in this region before 1798, but their work had not resulted in the formation of churches. The first Baptists were from Ohio and Kentucky, so that the Indiana churches did not differ essentially from those in the two States from which came their founders. In 1812, there were twenty-nine churches in the Territory, with one thousand seven hundred and twenty-six communicants.

In Illinois there were, doubtless, Baptist preachers from the neighboring States years before there were any church organizations of that sect. According to tradition, the first Protestant settlers were Baptists. In 1794, Josiah Dodge, of Kentucky, visited Illinois and baptized a number of persons.

The first church was organized in 1796 by David Badgeley, an immigrant from Virginia. In 1807, this church with four others, which had been formed in the interval, united in the Illinois Union Association, but the members were divided over the slavery question, so that a part were opposed to partaking of communion with slaveholders and withdrew to form the South District Association on an anti-slavery basis. In 1812, there were in Illinois seven Baptist churches, with one hundred and fifty-three communicants.

By 1820, educated ministers became more common in the Northwest, sent by the missionary societies in the North and East. Contrary to the customs of the earlier ministers, they attempted to educate the people by the establishment of Sunday schools and the circulation of Bibles and tracts. They were disliked by the older ministers, who considered them mercenary because they received salaries for preaching. The missionaries settled as pastors of churches in the villages and towns, while the old-style preaching was still kept up in the sections less thickly settled.

In the early history of the Northwest there were very few Episcopalians. This denomination was not very strong in the East, and was made up of men who did not emigrate. The pioneer bishop of the West was Philander Chase, a Vermonter by birth, whose missionary zeal carried him first into the New York wilderness, where he organized parishes at Utica and Auburn. Later he was sent to New Orleans, where he established Christ Church in 1805. Severe malarial fever compelled him to return to New England, but in 1817 he again took up missionary labor, going to the Western Reserve.

In 1818, there were only five Episcopal clergymen in Ohio; these with nine laymen met at Worthington and elected Chase bishop of the diocese of Columbus, which had been organized the year before. The new bishop entered upon a career of journeyings through the wilderness to visit the widely scattered parishes. Realizing the necessity of an educated ministry, which should come from

the people of the West, he established Kenyon College at Gambier, Ohio, with funds raised in Old and New England. The college was named in honor of Lord Kenyon, and the town after Lord Gambier, two Englishmen who greatly assisted him in the enterprise.

After the establishment of the college he carried on pioneer missionary work in Michigan, and in 1835 was chosen Bishop of Illinois. Chase was a man of indomitable perseverance and great strength of will, and he lived to see the Episcopal Church firmly established in the West.

The story of the work of the Roman Catholic Church in the Northwest Territory is a long and interesting one, but it falls mostly outside the limits of this chapter. It began with the first contact of the French with the Indians, because here as in Canada the Catholic priest was in advance of the settlers, and he went among the Indians as a missionary. The French settlements in the Illinois country and on the northern borders of the United States were thoroughly Catholic, ruled by the kindly, fatherly despotism of the priest.

In Michigan, the people were Roman Catholics, with very few exceptions, up to 1812. Of Ohio, Indiana, Illinois, and Wisconsin the same may be said. As far as there were any white or half-breed settlers, they were of the Roman Catholic faith. There is no possibility of telling their number, but a fair estimate of the Roman Catholic population in 1785 in the old Northwest and Upper Mississippi valley places it at four thousand. This was before any Protestant church had been established in the entire region. The non-French Catholic development came with the great European immigration after 1830.

Closely connected with the religious development of the Northwest was its educational progress. The difficulties, the same in both cases, were due to the distance of one settlement from another and the poverty which made life for the majority of the people a continual struggle for existence. It may even be said that the difficulties attending

educational growth were greater than those connected with the religious development, because the circuit-riding preacher could minister to a number of little groups of people, but the schoolmaster had to be supported by one community.

The settlements were begun at a time when the common school system as we understand it to-day had not come into existence. Not many men were willing to tax themselves for the education of other people's children. These facts should be borne in mind in a consideration of educational growth in the Northwest before 1830.

A good beginning, however, had been made in the instrument which provided for the government of this section. The Ordinance of 1787 declared that "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

As a means of carrying out the above idea it was made a provision of the Ordinance that the sixteenth section in each township should be reserved for the support of public schools within that township.

In order that there might be provision for higher education also, it was a condition of the sale of land to the Ohio Company that it set aside two townships for the benefit of a university, these townships to be laid off near the centre of the tract. Two of the best townships in the Territory were thus set off for university purposes, but from the beginning these lands were poorly managed. At the time of the survey, in 1791, they were found to be occupied by persons who had no claim to them except the doubtful one arising from occupancy. The income from the university lands was always very small. The townships were located in Athens County and the university was situated at Athens. It was established by act of the legislature on January 9, 1802, as the "American Western University." The trustees were appointed for life by the legislature. But the institution did not begin its existence until 1804, when the name was changed to the Ohio University. Three

students appeared on the day of opening and the first class, consisting of two members, was graduated in 1815. During the first quarter of the nineteenth century it was the only institution of collegiate rank in the Northwest and its whole number of graduates did not exceed twenty-five.

In Symmes Purchase, between Great and Little Miami Rivers, a township was set apart for the support of an academy and other institutions of learning. In 1809, the State passed an act intrusting the management of the land to a board of trustees, who had power to establish a university. This was done and the university was located at Oxford, but as in the case of the Ohio University its income was very uncertain because obtained largely from the rental of university lands. It began as a grammar school and did not in reality become a college till the first quarter of the century had elapsed. Both these institutions, although hampered by the lack of funds, did good work in the higher education of Ohio. In this early period very little was done toward the establishment of a common school system.

When the new Constitution was adopted in 1802, one clause in it read as follows: "No law shall be passed to prevent the poor in the several counties and townships within this State from an equal participation in the schools, academies, colleges, and universities within the State, which are endowed in whole or part from the revenue arising from donations made by the United States for the support of schools and colleges." But this enactment had no effect except to keep the money from being used for sectarian schools. There were schools in the larger towns, but the majority of the people were very poorly supplied with educational facilities. The money raised from the rental of the school lands seems to have been used to pay the tuition in such schools as were already in existence.

The only secondary schools until 1821 were those which were established in a community by the efforts of a few individuals who raised money by subscription to pay a teacher. In 1821, a school law was passed with many

excellent features, but it amounted to little or nothing, because it was permissive and not mandatory.

After the year 1821, there is evidence of greater interest in school matters and the people became aware of the fact that general education was a necessity if there was to be any progress. The first really important step in educational work occurred in 1824, when a bill passed the legislature for founding a general school system. The bill provided that a county tax of one-half a mill on the dollar should be collected for educational purposes; that township clerks and city auditors should be school officers; that teachers should be examined and that townships should be divided into school districts. But there was much opposition to the enforcement of the law. Agitation continued, and increasingly so as the people saw the necessity of liberal appropriations for educational purposes. The tax was gradually increased to one and one-half mills on the dollar in 1836. In 1831, "not more than half the school districts had school houses and they were not worth ten dollars each; the tuition fee was usual and the country schools were in session only three months in the year."

When the Northwest Territory was organized Governor St. Clair wrote of the people of Indiana "the inhabitants of the Wabash Valley are the most ignorant people in the world. There is not a fiftieth man who can either read or write." In the course of a century Indiana changed from this condition to a State with a school system unsurpassed by any State in the Union.

As the majority of the early settlers of Indiana were from the Southern States they, naturally, brought with them the ideas that education was only for the upper class who could afford to pay for it. The poor white inhabitants were very illiterate and had little desire to educate their children. There was no money with which to build schoolhouses and pay teachers. There were very few qualified to teach and there were the usual frontier conditions which required every member of the family to assist in earning a living.

The Indiana Constitution contained provisions under which the General Assembly had power to pass such laws for educational purposes as it might see fit, but no efficient school laws were passed. It is true that there were frequent statutes relating to education, but none of them seemed to be effectual.

In 1816, the electors of the townships were permitted to establish schools; but as this was permissive only and no way was provided by which the funds could be raised, the law remained a dead letter. This was true of other school legislation. Some of the more advanced communities established schools, but others did not. The school lands were well managed, however, so that at the present time the school fund of Indiana amounts to $10,000,000. There were a number of private and denominational schools established which furnished good education to the well-to-do class.

The conditions in Illinois were similar to those in Indiana. The settlers were largely from the South and in the early years there was little interest in education.

When Illinois was admitted to the Union there was the usual condition that the sixteenth section of each township should be held for educational purposes, and that two entire townships should be reserved for the establishment of a seminary and a university.

The first common schools were established in the city of Alton, which donated one hundred town lots, one-half for the support of public schools and the other half for the support of the Gospel. But Illinois as a Territory and in its early days as a State was not willing to pay the cost of a public school system. As in the other western States and Territories, the first legislation was permissive. By the law of 1825, schools for white children between the ages of five and twenty could be opened in all the counties; but four years later a law was passed by which State aid could not be given and no man could be taxed for school purposes without his consent in writing. On the whole the school

question was in a very unsatisfactory condition in 1830. The most promising work was that being done by the denominational schools and colleges. The missionaries from the Eastern States saw the importance of the connection between education and religion and also realized how little aid could be expected from the State.

In 1818, a Baptist school was established; and in 1828, a Methodist school; other denominations followed in the years immediately succeeding, so that by the middle of the century Illinois was well supplied with denominational schools. The missionary educators who founded these schools were not satisfied with leaving the work of training the young in the hands of sectarian institutions, but were largely instrumental in bringing about the public school system of Illinois.

Michigan was fortunate in several ways in the beginning of its educational work. It was settled later than the three States to the south, so that it had the benefit of their experience. It was settled by men from the East at a time when the East had entered upon its educational revival under Horace Mann and Henry Barnard. It was fortunate in having for its most influential governor in the territorial period Lewis Cass, a man who was thoroughly in sympathy with educational work.

Parochial schools were established in the Territory in 1798 under the direction of Father Gabriel Richard, a French priest. In 1804, a theological seminary was organized and about the same time a young ladies' academy.

In 1801, a school was started by Rev. David Bacon, a missionary. The most prominent of the early Protestant educators was the Rev. John Monteith, who began his labors in 1816. Monteith and Richard worked together and had great influence in the development of education.

In 1817, the legislature passed an act to establish the Catholepistemiad or University of Michigania. This act provided for thirteen didaxiin or professorships; among these were the didaxia of Catholepistemia, or universal science,

and the didaxia of Physiognostica or natural science. The professors were to have power to establish colleges, academies, schools, libraries, museums, athenæums, botanical gardens, and other useful, literary, and scientific institutions. The presidency and six professorships were given to the Rev. John Monteith, and six professorships to Father Richard. The University of Michigania was a grotesque attempt at establishing popular education; and yet Chief Justice Woodward, who was the originator of the plan, grasped the idea which was later to be worked out. He believed that the State should not only provide for the elementary education of children, but that it also should assume the duty of providing a higher education for all its citizens who desired it. He believed that such an education should be non-sectarian, and that this could not be provided in the various denominational schools. The Bible was to be used in the university for moral instruction and leading educators of different denominations were to be interested in the management of the institution. It was to be supported by an addition of fifteen per cent to the Territorial tax list. A building was erected at Detroit and school work of the elementary grade was begun there.

In 1821, the plan of the university was somewhat changed and simplified. The trustees were authorized to establish colleges, schools, and academies tributary to the University of Michigan.

In 1826, Governor Cass urged the importance of establishing schools to be supported by general taxation, and the first legislation on common schools was in the following year.

A law was passed which provided that every township containing fifty families should be furnished with a good schoolmaster, of good morals, to teach the children to read and write, and to instruct them in the English or French language, as well as in arithmetic, orthography, and decent behavior, and that the school should continue in session six months of the year. In townships of a hundred households a school was to be taught the entire year. Where there

were one hundred and fifty families an English school was to be maintained. Where the township contained two hundred families, a grammar schoolmaster was to be employed, of good morals and well instructed in Latin, French, and English. These schools were to be supported by taxes levied as the majority of the people might vote.

This plan of 1827 did not seem to be entirely satisfactory, for in 1829 there was additional school legislation. One provision at this time was in regard to the pay of the teacher. It was the duty of the teacher to keep an accurate list of the attendance of all the pupils, and at the end of the term, each individual was to be assessed in proportion to the number of days his children had attended school. Business arrangements for the conduct of the schools were in the hands of a board of five assessors in each township. This law was not obligatory on any town which declared by a two-thirds vote that it would not comply with the act.

In the Territorial period the pay given the teachers was very small, from $4 to $14 a month and board. The teacher was expected to teach six days in the week and from six to eight hours a day. The buildings were made of logs in the most primitive way. Instruction was given in reading, writing, arithmetic, and occasionally in geography and grammar.

Progress along the lines indicated by Governor Cass continued, and in the university of to-day the far-reaching plans of Judge Woodward have been more than realized, and Michigan has a school system which compares favorably with that of any State in the Union.

Another important question in the Northwest Territory was that of government, especially local government. Where only a few families were in the same neighborhood, there was little call for organization, but as the number of settlers in the same vicinity increased, there arose certain needs which could best be met by united action. The most important of these were means of communication and of keeping order.

Organization on the village community plan was easily and quickly effected by men from New England, though they understood perfectly well that their appointments had no legal authority. This happened in the Western Reserve where the men from Connecticut did not know whether they were legally under the rule of Connecticut or that of the United States.

It occurred again at Marietta where the settlers agreed to a set of rules and regulations the day after they landed. They felt the need of some government for the period before the arrival of St. Clair, and they closely adhered to these voluntary regulations until the government of the Northwest Territory was inaugurated more than three months later, July 15, 1788.

In the northern and southern States on the Atlantic seaboard there were two different forms of local government due to differing circumstances. In the North the people were as a rule settled in small communities, and the town meeting was the common system. In the South the plantation system existed, where each planter might own thousands of acres. The town system was impracticable here, and the county was taken as the administrative unit. In the central States there was a modification of the two systems. Emigrants from all these three sections went into the Northwest and carried their institutions with them.

There was little opportunity for self-government in the Northwest after St. Clair was inaugurated. According to the Ordinance of 1787, the administration of local affairs was in the hands of the governor of the Territory, who had power to appoint "such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order of the same."

To carry out these regulations townships were created, and over each township was placed a constable, township clerk, and overseer of the poor. These officers were not elected by the people, but appointed by the "justices of the

court of quarter sessions of the peace." In 1792, three assessors for each township were appointed by the "judges of the court of common pleas" of each county.

The first change in the direction of local self-government was made in 1795, when the assessors were elected by the voters of the township. In 1802, the New England spirit had so far asserted itself that the people obtained the power of choosing their own local officers. On the 18th of January of that year a law was passed by which the legal voters of the township were authorized to assemble in town meeting and elect a township clerk, three or more trustees, two or more overseers of the poor, three fence viewers, two appraisers of houses, one lister of taxable property, one or more constables, and one or more supervisors of roads. There are interesting differences between the power of the people in the Ohio and the New England town meetings. In New England the powers were very large and indefinite, while in Ohio they were limited to the election of officers, and these officers were to administer the affairs of the town, attending to many matters which in New England were settled in the town meeting by the whole body of voters.

In 1804, there were further changes by which the people could levy a tax for local purposes and other alterations were made by which the power of the trustees was increased. Both these changes were in the direction of the New England form of government, in which the selectmen corresponded to the Ohio trustees. In 1810, the power of the trustees was again increased by giving them the authority to levy taxes for local purposes. The electors were to choose judges of elections in new townships and elect officers for the old townships. On the application of two or more freeholders, the trustees were obliged to insert in the warrant "such other business, matter, or thing as may be proposed to be submitted" to the meeting. The system has remained essentially unchanged since 1820, so that the government of the township to-day is in the hands of trustees elected by the people.

At the time of the admission of Illinois into the Union in 1818 the immigration had been largely from the South, and the settlers had brought their ideas of local government with them. According to the Constitution adopted in 1818 each of the fifteen counties into which the State was divided was managed by a board of three county commissioners. This was a reproduction of the Virginian rather than the New England form of government, with the exception that in Illinois the commissioners were elected by the people. Again there was an approach to the New England system in that the people had the privilege of electing the sheriff, coroner, clerk, surveyor, and treasurer of the county. On the whole it was a reproduction of the Virginian system of making the county the administrative unit instead of the town. When Illinois became positively an anti-slavery State and its northern part was thickly settled by emigrants from the northeastern States, there was more and more emphasis placed upon the township as a political as well as a geographical unit, and an attempt was successfully made to change the system of local government so that it should be more like that of New England. This change was not consummated till 1847 when a compromise was effected by which the counties were allowed to form township organizations if they chose to do so. All the northern counties accepted the opportunity, while the southern ones retained the county as the political unit. At present, however, nearly all the southern counties have adopted the township system.

In early Michigan the influence of the New England immigrants was evident. In 1825 Congress gave power to the governor and council to incorporate townships and provide for the election of county and township officers. All local officers were elected by the voters of the township, but the men of the township, had little if any power to raise money. The power of raising funds for school use was not granted until 1827. From that time on the power of the township has increased. There are two reasons for this increase in the power of the town. One is that the people were largely

of New England training, so that the adoption of the system to which they were accustomed was entirely natural. A second reason was the influence of Governor Cass. He was thoroughly democratic in his views and urged the people to use the privileges which they had, and he increased their privileges and responsibilities whenever he could do so.

ARVARD LIBRARY

STANFORD LIBRARY

Sunday July 15th 1804 Set out at Six oclock
A m passed a Creek on the South Side Called Plumb
Run water verry Strong passed a Creek on the South Side
Called We ma how Creek the it is about 30 yards wide
the Land is High and good encamt on the South Side

Monday July 16th we Set out verry early and
prossed on the Side of a Prarie the wind from the South
Sailed over Boat Run on a Sawyer Sailed all day made 20 -
miles passed Sevrull, P Sd Camt on the North Side

Tuesday July 17th 1804 Lay by all this day
for to kill Som & fresh meat Capt Lewis & Go. Druger
went out Hunting Drugher Killed 3 Deer the Land is

Page of the journal kept by Sergeant Charles Floyd, on the Lewis and Clark expedition.
From the original owned by the Wisconsin Historical Society.

CHAPTER XVII

THE ADMISSION OF MICHIGAN AND WISCONSIN

THE fourth section of the Northwest Territory to enter the Union was Michigan. This State was admitted in 1837, nineteen years after Illinois had achieved statehood. This delay is explained partly by the location of Michigan. It was too far north to attract emigrants from the southern States, and it could not be reached by way of the Mississippi and its branches. It was thus denied that ease of communication with the southern and central States which had much to do with the rapid settlement of the three southern States of the Northwest Territory. Again, there was an abundance of fertile land in Ohio, Indiana, and Illinois which was open to settlers, so that there was no particular object in going so far north, where the winter was much colder, and where, according to the reports of surveyors, the interior of the peninsula was made up of a very poor quality of land.

On May 6, 1812, Congress passed an Act appropriating six million acres of land for the payment of soldiers who should serve in the war against Great Britain. Of this amount two million acres were to be set apart in the State of Michigan. The surveyor who was sent to lay off this land in Michigan reported that there were no government lands in that Territory fit for cultivation, and April 29, 1816, an act was passed by Congress relieving the soldiers from being compelled to accept this apparently worthless

land. The official report on which the relieving act was based set forth: "The country on the Indian boundary line, from the mouth of the great Auglaize River, and running thence for about fifty miles, is (with some few exceptions) low, wet land, with a very thick growth of underbrush, intermixed with very bad marshes, but generally very heavily timbered with beech, cottonwood, oak, and so forth; thence continuing north and extending from the Indian boundary eastward, the number and extent of the swamps increases, with the addition of a number of lakes, from twenty chains to two and three miles across. Many of these lakes have extensive marshes adjoining their margins, sometimes thickly covered with a species of pine called 'tamarack,' and other places covered with a coarse high grass and uniformly covered from six inches to three feet (and more at times) with water. The margins of these lakes are not the only places where these swamps are found, for they are interspersed throughout the whole country, and filled with water as above stated, and varying in extent. The intermediate spaces between these swamps and lakes, which is probably near one-half the country, is, with a very few exceptions, a poor, barren, sandy land, on which scarce any vegetation grows except a few very small scrubby oaks. In many places, that part which may be called dry land is composed of little short sand hills, forming a kind of deep basins, the bottoms of many of which are composed of a marsh similar to the above described. The streams are generally narrow and very deep compared with their width, the shores and bottoms of which are with very few exceptions swampy beyond description; and it is with the utmost difficulty that a place can be found over which horses can be conveyed. A circumstance peculiar to that country is exhibited in many of the marshes, by their being thinly covered with a sward of grass, by walking on which, evinced the existence of water or a very thin mud immediately under this covering, which sinks from six to eighteen inches from the pressure of the foot at every

step, and at the same time rising before and behind the person passing over. The margins of many of the lakes and streams are in a similar condition, and in many places are literally afloat. On approaching the eastern part of the military lands toward the private claims on the *Straights* and Lake, the country does not contain so many swamps and lakes, but the extreme sterility and barrenness of the soil continues the same. Taking the country altogether as far as has been explored, and to all appearances, together with the information received concerning the balance, it is so bad that there would not be more than one acre out of a hundred, if there would be one out of a thousand that would in any way admit of cultivation."

Another drawback to the rapid settlement of Michigan was its double frontier, which compelled the settlers to defend their borders against the British in the War of 1812, and against hostile Indians then and at a later period. The Territory suffered severely in the War of 1812, through the surrender of Detroit by General Hull, as well as through other battles. The Indians remained unfriendly for many years so that settlers naturally chose to take up lands farther south where there were greater securities against violence.

When the Northwest Territory assumed the second grade of Territorial government in 1798, Michigan formed the single County of Wayne, and sent one representative to the Territorial Legislature at Chillicothe. On the 7th of May, 1800, when the Northwest Territory was divided, Michigan was mainly included in Indiana. At the further division on January 11, 1805, all north of a line east from the southern extremity of Lake Michigan to Lake Erie, and north through the lake to the northern boundary of the United States became by Act of Congress the Territory of Michigan.

At the time of the formation of the Territory the white population was mainly French. There were a few British and some adventurous American fur traders. The principal settlement was Detroit, which had been for many years the

centre of French influence in the West. The site of Detroit was first visited by the French in 1669 and settled in 1701. It came into British hands in 1763 and into possession of the United States in 1783. During the eighteenth century it had increased in population in a leisurely way by the coming in of settlers from Canada. With the British occupation a few English and Scotch traders had made Detroit their headquarters. At the beginning of the nineteenth century Detroit, though under American control, still retained many of its French characteristics, so that the problem of government was quite a different one from that faced by the Territorial governor in the portions of the Northwest Territory farther to the south.

General William Hull, who was made governor upon the formation of the Territory, did not understand the situation at the outset and never succeeded in grasping it. Hull had done excellent service in the Revolution. He joined the American army soon after the battle of Lexington and fought with marked skill and bravery until Cornwallis surrendered. He was apparently well fitted for the governorship. No one doubted his bravery or his organizing ability, but he did not prove to be the right man to govern a frontier community. He was unfortunate in the men who were selected to be his associates in the administration of affairs. He came to the Territory in July, 1805, and instead of the prosperous village there appeared only blackened ruins. On June 11th the entire town had been destroyed by fire. The governor and Chief Justice Woodward made a journey to Washington to obtain relief for the people. Their petition to Congress was successful and that body authorized the governor and judges to lay out a town, including old Detroit and ten thousand acres adjoining; those who had suffered by the fire were to have lots given them. Michigan, like the other Territories, needed a code of laws. This the governor and judges proceeded to make, but their meetings for this purpose were not harmonious and profitable, because Judge Woodward and Governor Hull could not agree.

Woodward was a man of magnificent enterprises. He made a plan for the future city of Detroit following that of the city of Washington, but the people thought it absurd that Detroit, which was only a good sized village, should be laid out upon so extensive a scale as that insisted upon by the chief justice. In the same spirit Woodward entered upon banking in a large way, even before he had secured a charter for his bank. Another of his schemes, which at the time was not to be realized, was his plan for a great University, of which mention has already been made.

The Territorial body of laws was made up of selections from the codes of the different States, according to the principles laid down in the Ordinance of 1787. About one-third of the laws were taken from the Code of Virginia; other parts were from the laws of Pennsylvania, Masachusetts, New York, and Ohio.

Hull was succeeded by Lewis Cass on October 9, 1813. Cass knew the Northwest thoroughly, because from the age of seventeen he had been in Ohio. He was a lawyer of prominence, and in the War of 1812 had shown himself to be a brave and successful leader.

We have stated that one reason for the slow settlement of Michigan was the trouble which came from the Indians. They had aided the British in the War of 1812 and had refused to surrender their lands by treaty, saying that their brothers to the south had been very foolish in doing so, but that they did not intend to be so unwise. So long as the Indians held by far the greater part of the lands in Michigan, there could be little growth of American settlements. Governor Cass realized this and by honest, straightforward business methods succeeded in making no less than eighteen treaties with the Indians. By these treaties the Indians were treated fairly on terms which were satisfactory to them. He crowned his negotiations by causing the Indians to remove beyond the Mississippi. Cass was always regarded by the Indians as their friend and he constantly used

every opportunity to improve their condition. He strove to persuade them to give up drinking and they affectionately called him their "Great Father at Detroit."

Cass strove to become acquainted with the Territory which he had been set to govern. In 1819, he wrote to Secretary Calhoun for authority to make a tour of the southern shore of Lake Superior and then to proceed to the source of the Mississippi, coming home by way of Prairie du Chien and Green Bay. His object was to make a study of the Indian tribes and induce them to give up their allegiance to Canada, and to investigate the mineral resources of the country. Permission was granted and an expedition set out in three bark canoes. One member of the party was Henry R. Schoolcraft, the ethnologist and expert on Indian affairs. The expedition left Detroit on May 24, 1820. and went along the shores of Lake Huron, and after a voyage of three hundred miles reached Mackinac on June 6th, and a few days later the Sault de Ste. Marie. Here Cass showed his skill in dealing with unfriendly Indians. To show their contempt for the Americans, the Indians hoisted the British flag. Cass came alone and unarmed, walked into their camp and pulled it down, carrying it back into his own camp. In a few hours the Indians, overawed by his boldness, agreed upon terms of peace.

After this conference the Americans went along the southern shore of Lake Superior to its western end and from that point by land and water to the Mississippi, thence to Prairie du Chien and across Wisconsin to Green Bay. Governor Cass then went to Chicago with a part of the company, and from that place proceeded to Detroit overland by the old Indian trail. The expedition was in every way a success. It gave Cass an increased influence over the Indians, and revealed to him some of the resources of the country which he governed.

By Act of Congress in 1818, upon the admission of Illinois to the Union, Michigan Territory extended westward to the Mississippi including thus the present State of Wisconsin.

Cass had the control of this region for the remaining years of his occupation of the office of governor.

In the States to the south of Michigan, the people were anxious to have something to do with their own government, and so pushed on toward the second stage of Territorial government, and after that to statehood as rapidly as possible, sometimes resorting to census methods that were questionable in order to convince Congress that their States contained the required number of inhabitants. But the French settlers of Michigan were not anxious for self-government; providing that they were undisturbed in their customs and religion they were content to allow others to govern them. When Americans from the South or East came into Michigan, Cass encouraged them to take all possible part in the government. Officers whom he had a right to nominate, he allowed them to name, in order that a democratic spirit might be cultivated.

In 1818, it was believed that the population was sufficiently numerous to enable Michigan to enter upon the second stage of Territorial government, but the French, who were in a large majority, were satisfied with the first stage and voted against any change. The people, who had not yet recovered from the impoverishment caused by the War of 1812, felt that the expense of the second stage of government would be greater, and did not care to have their taxes increased.

In the next year, 1819, Michigan was given by Congress the right of electing a delegate to that body, and Mr. William Woodbridge was chosen to that position.

On May 3, 1823, by Act of Congress, a Legislative Council of nine members was appointed by the president out of eighteen elected by the people. By this change Michigan advanced to the second stage of Territorial government. In 1825 the number of councilmen was increased to thirteen, and in 1827 the right of electing members to the Legislative Council was granted to the electors of the Territory.

By the census of 1830 it was found that Michigan had a population of thirty-two thousand five hundred and thirty-eight, and the next year the pride of the people of Michigan was flattered by the call of their governor to accept a position in Jackson's Cabinet as his secretary of War. When Cass left the Territory to accept this position Michigan lost one of its greatest governors and one to whom the Territory owed much of its growing prosperity. Unfortunately for Michigan the successor chosen by the president was not a suitable man for the office. Jackson was more inclined to find profitable positions for his friends than to see that a distant Territory had a suitable man for its governor. John T. Mason, of Virginia, who had nothing to recommend him but his affiliation with Jackson's party, was appointed as Territorial secretary, but he did not choose to act and the position was transferred to his son, a boy of nineteen years of age, and therefore too young legally to hold the office.

The matter was made worse by the fact that a governor was not then appointed to the position left vacant by Cass, so that young Mason had control of affairs.

When a governor was appointed, the choice fell upon George B. Porter, of Pennsylvania, who was commissioned September 17, 1831; but he had business to attend to which he considered of more importance than the administration of the affairs of Michigan, so that he did not go to that Territory for nearly a year. Young Mason was thus acting governor till the arrival of Porter. The work of Cass in placing the government on a solid footing now bore fruit. There was no revolution. The people felt that Mason was acting governor and there was nothing to do but to accept the situation. They were willing to give the boy a chance, especially as there was nothing else for them to do without great trouble; and the young man proved that he was equal to the emergency. The responsibility for government was practically in Mason's hands until Michigan became a State; but the young man was able and ambitious and threw

himself heartily into the work and became a leader in the movement for statehood. He continued in this position of Territorial secretary until September 8, 1835, on which date he was removed by President Jackson in consequence of his effort to enforce his authority as acting governor of Michigan in the matter of the territory in dispute between Ohio and Michigan.

On the 28th of June, 1834, Congress added to Michigan the territory between Mississippi, Missouri, and White Earth Rivers. This included the whole of the present Minnesota, Iowa, and parts of North and South Dakota. Beginning with 1832, there was a desire for a State government. More and more the Territory was filling up with settlers from the East, and these immigrants, unlike their French neighbors, desired a larger share in the government than the Territorial form allowed them.

The years from 1832 to 1835 were full of activity in the growing Territory. There was a rapid immigration into the southern peninsula from the Eastern States after the people of the East had become convinced that Michigan was not made up of sandhills and swamps. With this increase in immigration there was a growing demand for statehood.

In 1835, the population was found to exceed sixty thousand, and according to the Ordinance of 1787 the people considered themselves entitled to a State government. A constitution was formed and Mr. Mason elected governor. This, owing to the Michigan interpretation of the Ordinance of 1787, was done before Congress had passed an Enabling Act. It is probable that this irregularity would have been passed over in silence, but the boundary between Michigan and Ohio was in dispute and the former could not well be admitted into the Union until this question was settled. This dispute, which has been fully discussed in the chapter on the admission of Ohio, involved a strip of land seven miles wide and containing about six hundred square miles. The main point in the controversy, as we have seen, was

peninsula was geographically a part of Wisconsin, and was separated by a great body of water from the remainder of Michigan. When Michigan Territory was organized and later when what is now the State of Wisconsin was added to Michigan Territory, it was a matter of small importance, comparatively, how the portion west of Lake Michigan was governed, because of the limited number of white inhabitants, and the still more limited number of those who spoke the English language. But with the growth of this western part of Michigan Territory, although it was a slow growth, there was an increasing feeling that Detroit was too far away to be the proper seat for the government of Wisconsin. The same arguments were used which were common south of the Ohio when Kentucky and Tennessee were anxious to free themselves from their dependence upon the parent civil organization over the mountains. It was claimed that the distance was so great that the western section of Michigan Territory was practically without law.

The first movement, as far as known, for a separate government of Wisconsin was in 1834. In 1836, a separate Territory was organized by Act of Congress.

Wisconsin grew rapidly, the population probably increasing between 1830 and 1840 from three thousand to thirty thousand. In the later years of this decade there was a strong desire for State government.

In 1838, Iowa was set off, comprising that portion west of the Mississippi and east of the Missouri. In 1846, Iowa territory was reduced by the formation of the State of Iowa, and in 1848 was united with a part of Wisconsin Territory and organized as Minnesota Territory.

When Wisconsin was finally admitted to the Union, it contained fifty-four thousand square miles. Illinois has two thousand square miles more than this, and Michigan three thousand, while the other two States of the Northwest have less.

The first Territorial governor was Henry Dodge, a man well-fitted for the position because of his thorough

acquaintance with Wisconsin. He was a soldier who had conducted himself with bravery in the Indian wars and made up for his lack of education by abundant common sense. The governor took the oath of office on the 4th of July, 1836, at Mineral Point, a flourishing settlement in the lead region. The first legislative session was held at Belmont, Iowa County, October 25, 1836, at which time the Territory was divided into counties and three banks were incorporated.

The land speculating fever had reached the new Territory and there was much excitement over the location of the Territorial capital. There were many towns, some of them in actual existence and others only on paper, which were anxious for the honor and money which would come to the town chosen as the seat of government. Madison was finally selected because of its favorable location and beautiful surroundings, and through the influence of James Duane Doty. This man had been influential in having Wisconsin set off as a separate Territory. There was no actual town of Madison at the time of its selection as the site of the Territorial capital, but Doty owned the town site, which had been surveyed and divided up into lots. After long discussion the advantages of the Madison location, added to the persuasive efforts of Doty, succeeded in bringing the legislators to the conclusion that Doty's town site was the proper location for the capital. Until the capitol building was finished the legislature was to meet at Burlington.

It was during the second legislative session at Burlington that the Milwaukee and Rock River Canal Company was incorporated. The company planned to connect the lakes and Mississippi River by means of a ship canal and the nearness of the upper waters of Rock River to streams flowing into Lake Michigan seemed to designate this as the place for the canal.

The Company was to have a capital stock of $100,000 which might be increased to $1,000,000 if it should be found necessary. The right was reserved to Wisconsin,

after it should be admitted to the Union, to purchase the canal at any time on payment of the actual amount expended by the company in building and repairing the canal together with interest upon such sums at the rate of seven per cent.

A grant of land was made by the United States in aid of the canal, but opposition to the scheme came from those parts of Wisconsin which would not be directly benefited by the expenditure of public funds. An unwise policy was pursued by the Territorial officers. The whole matter finally collapsed after the Territory had spent more than $30,000, and the canal company nearly $26,000. The canal, which was the largest undertaking of the Territorial government, was never finished.

James Duane Doty, who succeeded Henry Dodge as Territorial governor, was a man who was not averse to a controversy. It made little difference to him whether his opponent was a political rival or the National Government. During the three years in which he held the office of governor, there were abundant opportunities for him to show his warlike spirit, and it may be truthfully said that he was not wanting in able seconds.

The most interesting controversy of his period was the quarrel with the National Government over the southern boundary of Wisconsin. The Territory considered itself deprived of some of its most valuable land by the grant of the strip of its Territory to Illinois. In 1840, at a meeting held in the disputed tract, the claims of Illinois and Wisconsin were presented, and the majority of the people in the Territory in controversy were in favor of the Wisconsin claim. They believed that the boundary established by the Ordinance for the government of the Northwest Territory was unalterable except by common consent, and they had never given their consent to any change. They pledged their support to Wisconsin in the dispute. These people held that the Ordinance could not be displaced by any Act of Congress, such as had transferred the strip in question to Illinois. Another reason why they wished to go back to the

Territorial condition and become a part of Wisconsin was the enormous debt with which Illinois had burdened itself for the sake of internal improvements. If the northern counties could become a part of Wisconsin they would not be held for their share of this debt. The Territorial Legislature of Wisconsin discussed the matter freely in 1843 and 1844.

A committee to whom the question was referred expressed itself in such a way as to show its deep indignation and suggested that the matter might be settled by the Territory itself if Congress refused to give redress. The language sounded very much like a threat of secession. An address was sent to Congress asking for proper compensation for the loss of this territory. Four things were mentioned which Congress might do to pay Wisconsin for this lost land: one was to construct a railroad system between Lake Michigan and Mississippi; a second was to improve Fox and Wisconsin Rivers so as to make a national waterway between the Great Lakes and Mississippi River; the third was to connect Fox and Rock Rivers by a canal; and the fourth was to construct six harbors at designated places on the shore of Lake Michigan.

In case an appeal to Congress should not produce the desired results "we can . . . take for ourselves and our State the boundaries fixed by the Ordinance, form our State Constitution, which should be republican, apply for admission into the Union with these boundaries, and if refused so that we cannot be a State in the Union, we will be a *State out of the Union* and possess, exercise and enjoy all the rights, privileges, and powers of the *sovereign independent* State of Wisconsin; and if difficulties ensue, we could appeal with entire confidence to the Great Umpire of nations to adjust them."

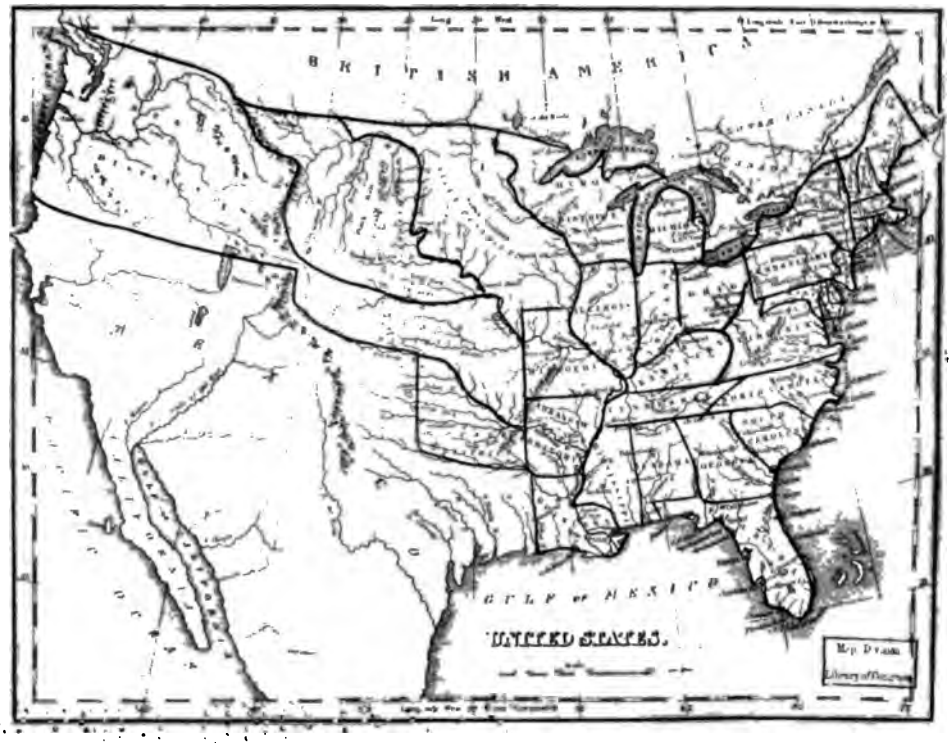
This address produced no effect on Congress. Wisconsin was very young and very much in earnest, but no one feared that its threats would end in actual secession. Wisconsin did not threaten to secede, only to become a State,

which its people believed they had a right to do under the Ordinance of 1787, and remain a State out of the Union. Wisconsin believed that it had a right to become a State when the population reached the required number of sixty thousand, but that Congress alone had the power to say when it should come into the Union.

It is probable that this threat of Wisconsin did not mean so much as it seemed to mean on the surface, but that the main object was to obtain concessions from the National Government as Michigan had obtained them in its dispute over the question of its southern boundary.

Favorable reports sent to Europe persuaded a large number of very desirable emigrants to go to Wisconsin. Other people came, induced by the cheap, rich land, who were not desirable. The most notorious of these was a Mormon leader, James Jesse Strang. Driven from the Mormon settlement at Nauvoo, Illinois, he claimed to have a revelation commissioning him to establish a settlement of Mormons in Wisconsin. He went to a place on White River which he named Voree, where he attempted to establish a settlement which should rival and, if possible, supplant Nauvoo. Strang succeeded in persuading a considerable number of persons to join the new community, of which he was the absolute ruler in both temporal and spiritual affairs. A branch settlement was established on Beaver Island in Lake Michigan. This prospered so greatly that the island became the headquarters of the community. But, later, rebellion broke out in the community and Strang was assassinated. The fisherman who occupied part of the island burned the Mormon settlement and the inhabitants were forced to return to the mainland.

Another social experiment which failed to accomplish all that its founders and followers hoped for it, was tried in Wisconsin in the Territorial period. Fourierism had spread from France to America, and it was believed that under happier auspices than existed in France, harmony might be brought out of discord in the social relations. Fourier's



Map of the United States, showing the territory reserved for the Indians, *circa* 1830.
From the original in the Library of Congress.

original idea was that all social problems would be solved by the association of congenial people in communities called phalanges. Each community was to be self-supporting, and the work so arranged that each person should engage in that occupation for which he was best fitted. A "Wisconsin Phalanx" was established at Ceresco, now Ripon, in May, 1844. The community of one hundred and fifty ate in common, but each family lived by itself. Work was done in common, and the profits were divided at the end of the year. The experiment was not a success in that it did not lead to other establishments of the same kind. The people were well cared for and prosperous under this system, but it was given up after seven years' trial because of the inequalities in the abilities of the different members, many of them feeling that they could do better if they were working independently. The lands were sold and the proceeds divided between the members of the community.

The population of the Territory increased with great rapidity in the period from 1840 to 1850. By the middle of the decade the population was far in advance of that required for the creation of a State. On the 6th of January, 1846, Governor Dodge, who was the last as well as the first governor of the Territory, submitted a message to the Wisconsin Legislature relating to State government and a committee was appointed which reported a bill in relation to the formation of a State government in Wisconsin.

According to this bill, every white male inhabitant above the age of twenty-one years, who shall have resided in the Territory six months next previous thereto, and who shall be either a citizen of the United States or shall have filed his declaration of intention to become such according to the laws of the United States on the subject of naturalization "was authorized to vote for or against the question of forming a State government." This bill became a law on February 2, 1846. The question of State government was submitted to the people on the 17th of April in the

same year, and the returns showed that twelve thousand three hundred and thirty-four voted for, and two thousand four hundred and eighty-seven against it. On August 6th, an Enabling Act was passed by Congress "to enable the people of Wisconsin to form a constitution and State government and for the admission of such State into the Union."

On the 7th of September delegates were elected to the convention which met at Madison, October 5, 1846, and continued in session until December 16th. A constitution was prepared and submitted to the people, who had shown their desire for a constitution, but this one contained features which to the majority of the voters were objectionable.

In the convention the question of giving the right to vote to free negroes was vigorously discussed and it was finally decided that the question should be submitted to the people in a distinct article, so that the controverted question might not imperil the acceptance of the constitution. This separate resolution provided that if the majority of people in Wisconsin Territory were in favor of equal suffrage to free persons of color, the following article should be inserted in the constitution: "All male citizens of African blood possessing the qualifications required by the first section of the article on 'suffrage and the elective franchise' shall have a right to vote for all officers and be eligible to all offices that now are or hereafter may be elective by the people after the adoption of this constitution." This resolution was defeated by a vote of fourteen thousand six hundred and fifteen to seven thousand six hundred and sixty-four. This defeat came because of the large number of Southern men who, as we have seen, had settled on the Mississippi. The German element was also opposed to negro suffrage, while the New England contingent was in favor of it.

There were also features in the constitution itself which aroused opposition and led to the rejection of the instrument. The following were some of the reasons which led to its defeat: The article relating to the property rights

of married women, which made property belonging to a wife personally separate from that of her husband. A second reason was the article on exemptions, which excepted forty acres of land, or the homestead not exceeding in value $1,000, when there was an execution or forced sale. There were some persons who strongly objected to the article prohibiting banks of issue. Others thought that the number of representatives in the legislature was too large. Another objection was that the judiciary was made elective.

The contest was spirited and resulted in the rejection of the proposed constitution and a new convention was ordered.

The chief objection to this first constitution was its prohibition of banks and banking. With the continued increase in population there was a growing need of State organization, therefore a special session of the legislature was called in October, 1847. This provided for the election of delegates to a new constitutional convention, which came together at Madison, December 15, 1847. Giving the right of voting to negroes had been so decidedly disapproved by the people that that article required special attention, and in connection with that was linked the question of allowing the franchise to unnaturalized foreigners. The Article on suffrage was as follows:

"Section 1. All free white male persons, of the age of twenty-one years, or upwards, belonging to any of the following class of persons, shall constitute the qualified electors at any election authorized by this constitution or by any law:

"1st. Citizens of the United States, who at the time of the adoption of this constitution by the people of Wisconsin were actual residents of the State.

"2d. Citizens of the United States, having become residents of the State of Wisconsin after the adoption of this constitution, and who shall have resided within this State for six months.

"3d. Persons not citizens of the United States, who at the time of the adoption of this constitution by the people were actual residents of Wisconsin, and had declared their

intention to become citizens of the United States in conformity with the laws of Congress for the naturalization of aliens, and who shall have actually resided within this State for six months.

. . . . . .

"Section 3. No person under guardianship, or *non compos mentis*, insane, or convicted of treason or felony, shall be permitted to vote at any election, unless restored to civil rights by law, or by removal of natural or other inability."

There was a long discussion in the convention of this question of negro and alien suffrage. The majority believed that it was soon enough to give the power of voting to the foreigner after he had been in the country five years. On the question of negro suffrage, the New England element was in favor of giving the vote to free blacks. An amendment was carried which provided that the legislature should have power to admit colored persons to the right of suffrage on such terms and under such restrictions as might be determined by law. This amendment was not essentially changed.

The convention adjourned February 1, 1848. On March 13, 1848, the new constitution was submitted to the people, and was adopted by a vote of sixteen thousand four hundred and forty-two to six thousand one hundred and forty-nine.

On the 29th of the following May, an Act of Congress admitted Wisconsin to the Union. The great increase in population continued and it accelerated by the admission. The increase in population from 1840 to 1850 was from thirty thousand nine hundred and forty-five to three hundred and five thousand three hundred and ninety-one; and its unlimited water power, fertile fields, rich mines, and timber have continued to attract large numbers of immigrants since that time.

The early immigration to Wisconsin differed from that to its neighbor, Michigan. The latter State was the most thoroughly northern of any of those formed from the Northwest Territory. The easiest way of access to Wisconsin

was by following up the Mississippi, so that its earliest settlers from the older States came from the south. This had its effect on the attitude of the State toward the slavery question, a question which was now becoming more prominent in national politics. As in other parts of the Northwest Territory where public sentiment favored such a course slavery was openly allowed. This condition continued unchanged until about the year 1840, when emigrants from the East and from Europe began to arrive in considerable numbers. The eastern men brought their views on the slavery problem as did the emigrants from northern Europe. The Germans and Scandinavians, who began to arrive about this time and who have made up such an important element in the population of Wisconsin, were strongly opposed to slavery. The settlements of the southern men were along the Mississippi. The eastern men and the emigrants settled in the central and eastern parts of the State. In these northern States a peculiar state of feeling showed itself. In Wisconsin, and later in Minnesota, the people were opposed to slavery but did not care to give the free negro the franchise; possibly because of the fear of making their States too attractive to the black man. These northern States were anxious to attract the best class of European emigrants and felt that a large negro element might repel the desirable emigrants from Germany and Scandinavia. As we have seen, when the question was submitted to popular vote, the southern element, as was expected, was overwhelmingly against it and a large majority of the whole population unhesitatingly opposed the granting of suffrage to the negro.

CHAPTER XVIII

ADMISSION OF IOWA, MINNESOTA, AND NEBRASKA

THE governmental experiences of Iowa before its admission into the Union as a State were many and varied. Its discoverers were the missionary priest Jacques Marquette and the explorer Louis Joliet, who were living at St. Mary's, the oldest settlement in the present State of Michigan. On May 13, 1673, with five Canadian boatmen, these two men left on an exploring expedition, and on June 25, 1673, landed near the mouth of Des Moines River. By right of discovery France claimed jurisdiction over the country thus visited until 1763, when the Territory was ceded to Spain. On October 1, 1800, it was ceded with the rest of Louisiana Territory from Spain back to France. On the 30th of April, 1803, it was in turn ceded to the United States by France as a part of the Louisiana Purchase.

These changes of government had little effect upon what was to constitute the future State of Iowa, because the Indians remained in almost undisputed possession. Although discovered and claimed by France in 1673, no attempt at settlement was made until 1788, when Julian Dubuque, a Canadian, obtained from Blondeau and two other Indian chiefs a grant of lands. This claim was twenty-one miles long and extended from the Mississippi westward nine miles. The grant was confirmed, in a qualified way, by Carondelet, Spanish governor at New Orleans. Dubuque engaged in mining and trading with the Indians, making his

headquarters at the place which now bears his name. The question of the validity of his claim to this great tract of land came before the United States Supreme Court in 1854, and the decision of that body was that his grant was only a temporary license to dig ore.

In 1799, a trading post was established on the Mississippi within the present territory of Iowa. This settlement and the one at Dubuque were abandoned, so that Iowa was practically an unknown and undesired country at the time when it came under the control of the United States in 1803. It was at that time Indian territory, occupied by the Sacs, Foxes, and Iowas, with the still more warlike Sioux on the north and west.

On the 31st of October, 1803, a temporary government was authorized for the recently acquired territory. By Act of Congress, approved March 26, 1804, Louisiana was erected into two Territories and provision made for the administration of each. The upper part was known as the District of Louisiana and included Arkansas, Missouri, and Iowa. This was placed temporarily under the jurisdiction of the Territory of Indiana. On July 4, 1805, all this northern district became the Territory of Louisiana, with a separate Territorial government. The legislative power was vested in the governor and three judges to be appointed by the President and Senate. This condition continued until December 7, 1812, when the Territory of Louisiana became the Territory of Missouri. In 1821, Missouri was admitted into the Union, and this admission of Missouri carried with it the abolition of the government of Missouri Territory, so that for a time Iowa was without any government. It is a question how much law remained in force in Iowa after the admission of Missouri. It is probable that the only civil law in force was the proviso of the Missouri bill, which prohibited slavery north of thirty-six degrees thirty minutes north latitude. No provision was made for that portion of the Territory of Missouri not included within the limits of the State of Missouri until

June 28, 1834, when Congress attached the present State of Iowa, together with other territory, to the Territory of Michigan.

On July 3, 1836, it was included in the newly organized Territory of Wisconsin. On June 12, 1838, the Territory of Iowa was constituted by Act of Congress. This Territory included "all that part of the present Territory of Wisconsin which lies west of Mississippi River and west of a line due north from the sources or headwaters of the Mississippi to the territorial line."

From the time of the purchase in 1803 up to the date of the organization of the Territory in 1838 there had been a gradual increase in the knowledge of this land and a growing appreciation of its value. There had been parties of hunters and trappers who made temporary settlements on the banks of the Mississippi in the period from 1820 to 1830. It was not till steam navigation was established on the Mississippi that there grew up a demand for the Iowa lands. Southeastern Illinois and northeastern Missouri were settled and the pioneers naturally looked to the equally desirable lands in Iowa. Various exploring expeditions also contributed to a desire to settle in the territory. Lewis and Clark added to the knowledge of its western borders by their expedition in 1805. Pike in the same year traversed another part of the Territory, and these explorers brought back accounts of its great fertility and of its desirability for settlement.

The government established a broad strip of neutral ground between the Sioux in the north and the Sacs and Foxes in the south to keep these tribes at peace, and in 1830 acquired lands on the Missouri to be used as Indian reservations. Here and there in the Iowa Territory were white men who had gained the friendship of the Indians and lived with them. There were trading posts of the American Fur Company and miners at Dubuque, who were licensed by the government to work at that point. Iowa remained the home of the Indians until the close of the

Black Hawk War, when General Winfield Scott, on September 15, 1832, concluded a treaty of peace with the Sacs and Foxes, by which the Indian title was extinguished to that part of land known as the Black Hawk Purchase. This was the eastern part of Iowa and extended along the Mississippi, from Missouri on the south to the "Neutral Grounds" on the north, and westward a distance of fifty miles. It contained about six million acres and was to be surrendered by the Indians on June 1, 1833. This gave the first opportunity for the legal settlement of Iowa by citizens of the United States.

June 1, 1833, was fixed as the day on which the Indians were to be removed from the Black Hawk Purchase and the lands opened for settlement. The would-be settlers came in large numbers to the banks of the Mississippi, ready to cross and get the choice of the land. United States troops kept guard on the western shore of the river and prevented any persons from entering the Purchase before the appointed time. At precisely twelve o'clock, midnight, June 1st, there was a wild rush of settlers from East and South and the settlement of Iowa was begun.

There was a rapid increase in population until the separate Territorial government was established, June 12, 1838. The first capital was Burlington, and the place of meeting of the legislature was in a church. Robert Lucas was appointed Territorial governor, and William B. Conway, secretary. The Territorial Legislature met on November 12, 1838. Burlington continued to be the seat of Territorial government till 1841, when Iowa City became the capital.

The Territory of Iowa had a heated dispute with the State of Missouri over the boundary line between the two. Missouri's northern boundary was the parallel of latitude passing through the rapids of the river Des Moines. There were two rapids, eight or ten miles apart, and the dispute was as to which of these was meant, Missouri insisting upon the northern and Iowa on the southern one. Each

government tried to enforce its authority. In the attempt to do this, Governor Boggs, of Missouri, called out the militia; then Governor Lucas, of Iowa, called out his soldiers. Five hundred men were under arms. On the petitions of Iowa and Missouri, Congress authorized a suit to settle the controversy, which resulted in a decision favorable to Iowa.

Further treaties were made with the Indians by which additional land was gained for settlement. A large tract of land was opened to settlers on May 1, 1843, and on the preceding night there was a rush of land seekers similar to that which had occurred ten years before; over a thousand families settled in the newly opened lands within twelve hours.

The very rapid increase in population led to a demand for statehood. On July 31, 1840, the Territorial Legislature passed an Act by which it called for a vote of the people on the question of assembling a constitutional convention. In August the vote was taken, resulting in the defeat of the proposition by a vote of two thousand nine hundred and seven to nine hundred and thirty-seven. Another vote was taken in 1842, resulting in the same way, but on February 12, 1844, the suggestion of a constitutional convention met the approval of the majority of the electors, and without waiting for a Federal Enabling Act a Constitution was adopted by a Convention which met at Iowa City, October 7, 1844, and finished its work November 1st of the same year. This Constitution was submitted to Congress by the Territorial delegate.

Here again there was the effort to balance a northern and southern State. Maine had been admitted into the Union in 1820, and Missouri in 1821; Arkansas in 1836, and Michigan in the next year. Now, it was proposed to admit Florida with Iowa. At this time Florida was much below the required population. The Congressional debate on the subject was a long and interesting one and brought out clearly the growing jealousy between North and South.

This feeling was especially strong at this time because of the probability that several southern slaveholding States might be formed from Texas.

There was furthermore a dispute of considerable importance over the general boundary of Iowa. The Constitution submitted to Congress by the Territorial delegate provided that the boundary should be as follows: "Beginning in the middle of the main channel of Mississippi River opposite the mouth of Des Moines River; thence up the said River Des Moines in the middle of the main channel thereof, to a point where it is intersected by the old Indian boundary line, or line run by John C. Sullivan in the year 1816; thence westwardly along said line to the 'old northwest corner of Missouri;' thence due west to the middle of the main channel of Missouri River; thence up in the middle of the main channel of the river last mentioned to the mouth of Sioux or Calumet River; thence in a direct line to the middle of the main channel of St. Peter's River, where Watonwan River (according to Nicollet's map) enters the same; thence down the middle of the main channel of said river to the middle of the main channel of Mississippi River; thence down the middle of the main channel of said river to the place of beginning."

An amendment was proposed in Congress which substituted the following in place of the boundary as given above: "Beginning in the middle of St. Peter's River, at the junction of Watonwan or Blue Earth River; with the said River St. Peter's running thence due east to the boundary line of the Territory of Wisconsin in the middle of Mississippi River; thence down the middle of the last-named river with the boundary line of the Territory of Wisconsin and State of Illinois to the northeast corner of the State of Missouri in the said River Mississippi; thence westwardly with the boundary line of said State of Missouri to a point due south from the place of beginning; thence due north to the place of beginning in said St. Peter's River."

Of especial interest was the attitude taken by Samuel F. Vinton, representative from Ohio, in regard to the admission of Iowa. He believed that the Western States should be small in area in order that the West might not be deprived of its share in the government of the nation. It seemed to him that the policy so far pursued in the West had been wrong because the States were so large that they were sure to contain two or three times as large a population as the Atlantic States. There was at the time a provision under consideration that Florida might be divided, when either East or West Florida should contain a population of thirty-five thousand. Vinton contended that if Florida was to be divided, there should be a provision for dividing Iowa, because it was safer to give political power to the West than to the Atlantic States, for the West was the great conservative power of the Union. He stated that though the spirit of disunion might exist in the North and in the South, it could not live in the West, because the interests of the West were inseparably connected with both, and it would hold the two sections together, because it had no prejudice against either North or South and, what was of greater importance, the West was a grain growing country, and so must look equally to the manufacturing North and the cotton growing South for its market. Therefore the West must be conservative whether it wished to be or not. Vinton believed that instead of five there should have been at least twelve States in the old Northwest, and that to partly offset this injustice, small States should be formed west of the Mississippi. After considerable debate in the House, the bill for the admission of Iowa passed that body and was transmitted to the Senate, which it passed March 3, 1845.

After a vote for admission, the constitution was submitted to the people of Iowa, who made serious objections to it. One objection was directed against the small salaries to be paid, which, it was feared, would result in getting only inferior men for official positions. The restrictions on banks and corporations proved an unpopular feature.

The limitation placed upon the extent of territory claimed by Iowa was unsatisfactory to many, though the State would still have an area of forty-four thousand three hundred square miles. This reduction of area was the greatest objection, so that when the vote was taken many who were in favor of statehood voted against forming a State of such reduced area, and the Constitution was rejected by a vote of seven thousand and nineteen to six thousand and twenty-three.

The governor called a special session of the legislature, and a bill for the re-submission of the constitution was passed over his veto. This was defeated by the people in August, 1845. On January 17, 1846, an Act was passed which provided for a new constitutional convention. This body came together in May and adopted a new constitution which did not differ greatly from the earlier instrument. The boundaries given in it were a compromise between those originally asked by the people and those granted by Congress. The matter was actively discussed in Congress when the new constitution with the changed boundaries came before that body, but the arguments were essentially the same as those previously advanced. An exciting campaign followed in Iowa, and the constitution was adopted, August 3, 1846, by a small majority. On the 4th of August the president signed the bill which settled the boundary question in accordance with the second constitution, and an Act was passed December 28, 1846, by which Iowa was admitted into the Union.

At the time of the admission of Wisconsin to the Union, in 1848, Minnesota was largely an unexplored wilderness. As early as 1820 Fort Snelling had been built at the junction of Mississippi and Minnesota Rivers. In 1822 the first mill was erected on the site of Minneapolis. A few years later a little company of Swiss settled near the present city of St. Paul, and these were probably the pioneer farmers of Minnesota. In 1836 settlements began on the east side of the Mississippi between St. Paul and Fort Snelling. In 1843, Stillwater, on St. Croix River, was founded.

The admission of the State of Wisconsin to the Union left a part of the original Territory of Wisconsin in a peculiar position. That part of the Territory west of St. Croix River was not included in the new State and the people living in that section were in doubt as to their governmental status. They were without representation in Congress, to which they naturally considered themselves entitled. In 1848, these people determined to assert this right. The first meeting for the agitation of the subject was held in a store in St. Paul, July 12, 1848. Resolutions were passed in favor of a convention. This convention, to consider the question of Territorial government, was held at Stillwater, August 5, 1848. The question before the meeting was whether the laws of the Territory of Wisconsin were still in force west of the St. Croix after the formation of the State government of Wisconsin. The general belief in regard to this was expressed in a letter from James Buchanan, then secretary of State in Polk's Cabinet, who had been asked his opinion. He believed that the Territorial laws were still in force in that part of the former Territory not now within the limits of the State of Wisconsin, because Congress would not intend to deprive the citizens beyond the limits of the State of their rights under existing laws. The difficulty was to decide what officers remained to carry out these laws. It was generally agreed that the local officers, such as judges of probate, sheriffs, justices of the peace, still retained their official positions, and that they were not affected by the change in the government. It was a question whether the former Territorial officers retained jurisdiction over the fragment of the former Territory, now that the main part of the Territory had become a State.

Immediate legislation seemed necessary because it was unlikely that Congress would maintain the machinery provided for the entire Territory for the purpose of governing twenty-five hundred or three thousand people. A second convention met at Stillwater, August 26, 1848. A committee was appointed to draft a memorial to Congress

urging the early organization of Minnesota Territory. This memorial read as follows:

"*Whereas*, By the admission of Wisconsin and Iowa into the Union with the boundaries prescribed by Congress, we, the inhabitants of the country formerly a portion of said Territories, are left without a government or officers to administer the laws: and

"*Whereas*, By the omission of Congress to organize a separate Territorial Government for the region of country which we inhabit, we are placed in the unparalleled position of being disfranchised of the rights and privileges which were guaranteed to us under the Ordinance of 1787; and without any fault of our own, and with every desire to be governed by laws, are, in fact, without adequate legal protection for our lives or property: and

"*Whereas*, Having patiently awaited the action of Congress during its late session, under the full hope and confidence that before the adjournment of that honorable body, a bill would have been passed for the organization of a Territorial Government to embrace our section of the country, we have been disappointed in our hopes, and cannot believe that the omission of Congress to act in the premises can proceed from any other cause than the want of an adequate acquaintance with the position in which we are placed, the character of the country, its population, and its resources:

"*Therefore, be it resolved*, That a memorial be addressed to the Senate and House of Representatives in Congress assembled, and also his Excellency, the President of the United States, respectfully requesting that he will invite the attention of that honorable body, in his annual message, to action in the premises.

"*Resolved*, That a delegate be appointed by this Convention, with full power to act, whose duty it shall be to visit Washington during the ensuing session of Congress, and there to represent the interests of the proposed Territory, and to urge an immediate organization of the same.

George Flower and wife. Founders of the English colony at Albion, Edwards County, Illinois.

From the originals in possession of the Chicago Historical Society.

"*Resolved*, That a committee of three persons be appointed by the President of this Convention, residing upon the waters of the St. Croix, and three residing upon the waters of the Mississippi, who shall collect information relative to the amount of business transacted and the amount of capital employed within the limits of Minnesota Territory, and forward such information as soon as may be, to our delegate.

"*Resolved*, That there shall be a committee of seven appointed by the President of this Convention to act as a central committee, whose duty it shall be to correspond with our delegate at Washington, and to adopt all other proper means to forward the objects of this Convention."

Mr. H. H. Sibley was elected delegate to represent the interests of the Minnesota Territory at Washington. An address was also prepared and sent to President Polk, describing their condition and the dangers and discomforts which came to the inhabitants of Minnesota as a result of the delay in giving the district a Territorial government. Mr. Sibley went to Washington, but was not allowed to sit as Territorial delegate until January 15, 1849. The bill for the organization of the Territory passed and became a law March 3, 1849.

The Territory included all the land of the United States lying within the following limits:

"Beginning in the Mississippi River at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same; thence running due west on the said line, which is the northern boundary of the State of Iowa, to the northwest corner of the said State of Iowa; thence southerly along the western boundary of said State, to the point where said boundary strikes the Missouri River; thence up the middle of the main channel of the Missouri River to the mouth of the White Earth River; thence up the middle of the main channel of the White Earth River to the boundary line between the possessions of the United States and Great Britain; thence east and south of east

along the boundary line between the possessions of the United States and Great Britain to Lake Superior; thence in a straight line to the northernmost point of the State of Wisconsin in Lake Superior; thence along the boundary line of said State of Wisconsin to the Mississippi River; thence down the main channel of said river to the place of beginning."

President Taylor appointed Edward G. McGaughey, of Indiana, Territorial governor, but his nomination was not confirmed by the Senate. Then Mr. Pennington, of New Jersey, was nominated, but he declined to serve, after which on June 1, 1849, Alexander Ramsey was appointed governor and accepted. St. Paul, at this time a village of two hundred inhabitants, was made the capital of the Territory. A census was soon taken and the Territory divided into districts. An election was held and the first legislative body, consisting of nine councillors and eighteen members of the Assembly, was chosen.

At this time there were very few white people in the Territory, and a large part of the land was in the undisputed possession of the Indian. The Indian titles to all the land to the west of the Mississippi still remained undisturbed. St. Paul and Stillwater were little villages, the other settlements only hamlets. There were probably not more than four thousand whites in the Territory in 1849, but immigration soon became very large. In 1851, the lands on the western side of the Mississippi were opened for settlement through a treaty with the Indians, and the aborigines were removed to upper Minnesota. After 1849 the Territory grew very rapidly through immigration from Ohio, Indiana, and the New England States. This stream of immigration was soon increased by that element which has had so much to do in developing the resources of Minnesota, the emigration from northern Europe. The population grew from five thousand three hundred and thirty in 1850 to one hundred and seventy-two thousand and twenty-two in 1860.

On December 24, 1856, the Territorial delegate, Henry M. Rice, introduced a bill for the admission of Minnesota as a State. On January 31, 1857, a substitute bill was submitted which differed from the earlier one in its definition of the boundaries of the State. The substitute bill defined the boundaries as they now exist, cutting off some six hundred square miles from the area proposed by Mr. Rice. The bill contained the provisions which had now become common in Enabling Acts, such as the appropriation of lands for school purposes and public buildings. The proposed boundaries caused a technical violation of the Ordinance of 1787, because five States had already been formed from the Northwest Territory, and now a small portion of the original Territory would become a part of a sixth State. It was, however, regarded as an unimportant matter, and was not seriously discussed. The bill passed the House by a vote of ninety-seven to seventy-five. In the Senate there was a much longer discussion. This turned on two points. One was whether aliens should be allowed to vote or not. According to the bill, those who were qualified to vote at Territorial elections could vote for delegates to the constitutional convention. Some of the "Know-Nothing Party" objected to this. The other great objection was to the admission of the Territory on any terms, and this came from the southern members who did not care to see the power of the north increased. The most prominent of these opponents was Thompson, of Kentucky, who openly gave this as his reason for opposing the bill.

The Enabling Act passed and was signed by the President February 25, 1857. In accordance with the provisions of the Enabling Act, delegates to a constitutional convention were elected on the first Monday in June, 1857. The delegates chosen were, according to the Enabling Act, to assemble at St. Paul on the second Monday of July, but the hour of meeting was not mentioned and this fact led to some confusion and misunderstanding both in Minnesota and at Washington. The Republicans met

on Sunday night at twelve o'clock in the Territorial capitol, so that when the Democrats came, they found the Republicans, who constituted a majority of the convention, in possession. The Republicans remained there until noon of the 13th, the day designated in the Enabling Act, when the Democrats assembled, holding that twelve o'clock noon was the legal time when no hour was mentioned. Mr. Chase, Democrat, and Mr. North, Republican, simultaneously called the convention to order. Mr. North nominated Thomas J. Galbraith as president *pro tempore*, while a Democratic delegate made a motion to adjourn till Tuesday at twelve o'clock noon. Mr. Chase put this motion, and the Democratic portion of the body left the hall. Then each body claiming to be the constitutional convention met in separate rooms and began the preparation of a constitution. After a time they appointed a conference committee, and both bodies agreed upon the same instrument, which was submitted to the people. The constitution was ratified by a large majority of the voters, and State officers and Congressional representatives were elected on the same day, October 13, 1857.

This constitution forbade slavery, and allowed only white men to vote. There were efforts made in both Democratic and Republican conventions to allow the free negroes to vote, but the attempts were not successful. Indians were allowed to vote if they had given up the tribal organization and adopted the methods of life of the whites. The constitution was very favorable toward aliens. Residence in the United States for one year, and in the State for four months, gave an alien the right to vote, provided that he declared his intention to become a citizen, conformably to the laws of the United States upon the subject of naturalization. Minnesota did not care for negro settlers, and so did not give the franchise to free black men, but it was anxious to get its share of the desirable emigrants from northern Europe, who were coming in large numbers to the United States, and so made the admission to citizenship very easy for that class.

When the bill for the admission of Minnesota came before Congress, there was a long and serious discussion of the matter. The question was not one of population or constitution but the more fundamental one of whether the Territory should be allowed to come in at that time. The conflict between North and South was becoming more bitter each day, and the South was as anxious to keep out this addition of two northern Senators as the North was to gain this added strength. When the bill was brought before the Senate for consideration, January 28, 1858, Jefferson Davis, of Mississippi, succeeded in postponing its consideration. This was the policy followed by the southern legislators, to postpone the admission of Minnesota, if possible, at least until Kansas came into the Union with its constitution permitting slavery.

Meanwhile, the senators-elect from Minnesota, Henry M. Rice and James Shields, were in Washington waiting for admission to the Senate. Seward, of New York, urged the desirability of admitting these senators because Minnesota had complied with all the required conditions.

Mason, of Virginia, thought it advisable to wait until the application should be received which was likely to come before the Senate in a few days for the admission of Kansas. It seemed to him best to consider the two bills together.

Wilson, of Massachusetts, insisted that the two cases were not similar, for the Minnesota constitution had been regularly submitted to the people and accepted by them. He characterized the Lecompton constitution as a swindle and said that he should oppose the admission of Kansas under that instrument. He regarded it as necessary to consider the admission of Minnesota because it was already organized as a State and had passed important State laws. Objections were made to the constitutional convention and it was declared to have been illegal. The method of electing representatives was objected to. The alien suffrage clause in the constitution was another reason for opposition to the admission of the proposed State.

On April 7, 1858, the vote in the Senate was taken and the bill passed with forty-nine in favor of it and three against it.

When it was brought before the House of Representatives, there was a long discussion, covering much the same grounds as in the Senate. Strong objection was made to the irregular constitutional convention, and to the alien suffrage clause. John Sherman, of Ohio, claimed that the constitution framed on the 29th of August, 1857, did not conform to the Constitution of the United States, and that another convention should be called which should bring the constitution into conformity with the Constitution of the United States. He claimed that one mob of fifty-four men arrayed against another mob of fifty-nine men, each mob denying the other's authority, did not make a constitutional convention. More than that, according to Sherman's view, there were in the constitution submitted by Minnesota violations of the Constitution of the United States. For one thing there was no limit to the duration of the time for which a representative could hold office. The clause in regard to aliens violated the spirit of the Constitution. Objection was also made to Indian suffrage. The bill finally passed by a vote of one hundred and fifty-seven to thirty-eight, and received the signature of the president on May 11, 1858.

But the troubles of the new State were not yet over. When the credentials of Henry M. Rice, as United States Senator, were presented, objection was made to his admission on the ground that he, while agent for the secretary of war, had sold land to settlers for $1.50 an acre, and had given them a receipt for only $1.25 an acre. Another objection was that Territories could not elect senators, and Mr. Rice had been elected when Minnesota was a Territory. But these objections were overruled and on investigation the charge of fraud in connection with the land sales was found to be without foundation.

On May 13, 1858, an attempt was made to swear in William W. Phelps and James M. Cavanaugh as representatives from the State of Minnesota. There was strong

opposition to this because the credentials of the two men were signed by the governor of the Territory, not by the governor of the State. The credentials were referred to the committee on elections. A majority and two minority reports were submitted and the report of the majority favoring the admission of the two men was accepted.

The part of Minnesota Territory outside the State limits was now entitled to a delegate according to the precedent established when the State of Wisconsin was organized from Wisconsin Territory. A report was submitted by the committee on elections, holding that Mr. W. W. Kingsbury had been legally elected. It was objected that Mr. Kingsbury lived in the State of Minnesota not in the Territory. These objections were overruled and Mr. Kingsbury represented the Territory until March 3, 1859.

The great immigration into Minnesota was due to a number of favorable conditions; not the least of these was the Homestead Law which kept the land out of the hands of speculators, and made it possible for actual settlers to get it without paying the prices demanded in Illinois and Iowa, where much of the land was held at high prices. The panic of 1857 made speculation very difficult, and the United States land laws of 1862 made it easy for the head of a family to gain lands with little cost.

By the Act of Congress on May 20, 1862, it was provided "that any person who is the head of a family, or who has arrived at the age of twenty-one years and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States government, or given aid and comfort to its enemies, shall, from and after the 1st of January, 1863, be entitled to enter one-quarter section or a less quantity of unappropriated public lands, upon which said person may file a preëmption claim, or which may, at the time the application is made, be subject to preëmption at $1.25 or less, per acre; or eighty acres or

less of such unappropriated lands, at $2.50 per acre, to be located in a body, in conformity to the legal sub-division of the public lands, and after the same shall have been surveyed."

There were various provisions of the Homestead Act, the most important one being that "no individual shall be permitted to acquire title to more than one-quarter section under the provisions of this Act."

The present State of Nebraska was nearly all included in the Louisiana Purchase, but the part west of longitude one hundred and three was acquired from Mexico by the Treaty of Guadalupe-Hidalgo in 1848. With the exception of this western strip, it was included in the District of Louisiana, and for administrative purposes was temporarily placed under control of the governor and judges of Indiana. This connection with Indiana continued until March 3, 1805, when the name was changed to that of the Territory of Louisiana, and established as a Territory of the second grade with James Wilkinson as governor.

It was the plan of the government to reserve this great section stretching north to the international boundary and west to Rocky Mountains as a country in which the Indians could remain unmolested, and which should never be opened to settlement for white men. There was very little law in this Indian country, though it was all nominally under control of the United States. It was supposed to be given up entirely to the Indians, but for various reasons there was an increasing, though still a small, company of white men who had already taken up their residence in the Territory, besides those who were there as representatives of the government. As far as there was any government by the United States, it originated from the United States District Court of Missouri.

There was a demand for something more than this form of administration, and in 1844, movements were made for the establishment of a Territorial government which should open the way for the settlement of Nebraska by white men.

These efforts to establish a government continued during the next ten years with increasing urgency, and the reasons for this are not difficult to understand. It was in this decade that the great rush for the California gold fields occurred, and the future States of Kansas and Nebraska were in the direct path of the thousands who made the overland journey. These gold seekers felt the need of better protection and accommodations through the Indian country than was at that time provided. There was a need of settlements along the route now being so much travelled. More important still, these many journeys revealed the agricultural possibilities of this trans-Missouri country, and the desirability of this section as a place for settlement became yearly better known.

By the middle of the century, Missouri had been a State for a generation, and was rapidly filling up with settlers. The equally desirable land west and northwest of Missouri remained unoccupied by whites, or at least could not be legally settled by them, because it was reserved for the Indians. This reservation of the lands for the Indians did not seem an unsurmountable obstacle, because many of them, especially the Wyandot nation, which was the leading tribe of the Northwestern Confederacy of Indians, were willing to come to an agreement with the national government by which their lands could be opened to white settlers.

These early efforts to induce Congress to form a Territorial government were not made because of the number of people in the Kansas-Nebraska country desiring it, but because it would open up the territory for settlement. This was desired by North and South alike, because each section believed that it would be for its own interests. The North thought that if this new Northwest could be opened as free territory, it would mean the extension of the power and influence of the North, because slavery seemed forever shut out by the Missouri Compromise (1820); while the South came gradually to the belief that the Missouri

granted to the State for the support of common schools; that twenty entire sections of the unappropriated public lands within the State should be granted for the purpose of erecting public buildings at the State capital; that fifty sections be granted for the erection of a penitentiary; seventy-two for the support and use of a State university.

The act provided that on or before the first Monday of May, 1864, there should be an election of representatives, who should assemble on the first Monday of July. This Assembly was authorized to form a constitution and State government with the usual provisions that the constitution should be republican and not repugnant to the Constitution of the United States and the Declaration of Independence. This constitution was to be submitted to the people for their ratification or rejection on the second Tuesday of October, 1864.

The election of members of the convention was not along party lines. The one question was whether the Territory was yet ready for statehood. Those who were opposed to statehood voted for candidates who agreed to vote for an adjournment, *sine die*, as soon as the organization of the convention was completed. Those who were in favor of statehood voted for candidates who thought that the opportunity should be improved, and that great benefit would come to Nebraska from its admission as a State.

When the convention came together and organization was perfected, a vote to adjourn *sine die* passed by a large majority. Nothing more was done until the assembling of the legislature of 1865–1866. It was then proposed that the legislature draft a constitution to submit to the people for their adoption. Petitions were presented, though not numerously signed, asking the legislature to do this. On February 4, 1866, the committee reported the result of its deliberation to the council.

The legislature approved the constitution and passed an Act calling for an election to take place June 21st. At that time the voters were to reject or adopt the constitution, and

elect the executive, judicial, and legislative officers for the new State, if the constitution was confirmed.

A very exciting political campaign followed in which the Democratic party attempted to show that there would be an enormous increase in the expense of conducting public affairs, so that immigration would stop, and the people would be ruined by the taxes; that it was not time yet for railroad building, and that this, if it should be undertaken, would entail additional heavy burdens on the farmers. Dire ruin was predicted if statehood came.

The Republicans could point to the very low emoluments which the officers were to receive. The governor was to receive an annual salary of $1000; the secretary of State, $600; the State treasurer, $400; and the State auditor, $800. The members of the legislature were to receive $3 per day and could not receive more than $120 for any session. Again the Republicans argued, there would be no danger of a great debt because the legislature could not authorize the issue of State bonds to the extent of more than $50,000 without the vote of the people. The great benefit in the way of internal development was pointed out, when the State should have the right to grant charters to the railroads. An era of unprecedented prosperity was predicted in case Nebraska became a State.

There were other reasons for this remarkable political activity. National politics entered here and made the election of senators more important than the question whether the people of Nebraska were ready for statehood or not. The Republicans were anxious to admit Nebraska because they believed it to be Republican, and it would, therefore, increase their majority in the Senate by two. The Democrats believed that it was against their political interests, and therefore opposed it. The Republican majority in Congress was so small that the admission of one new State might have important results. The vote was very close, the majority for the adoption of the Constitution being about two hundred.

The legislature met on July 4th and a sharp contest over the election in Cass County broke out. The legislature was in session ten days and elected two United States senators. These senators went to Washington and introduced a bill for the admission of Nebraska. On July 18th a bill was passed admitting the new State, but President Johnson stopped its passage by a pocket veto.

On the reassembling of Congress December 4, 1866, the representatives from Nebraska tried to have the bill for the admission of the State passed. But there had been changes in the political atmosphere at Washington. Johnson's growing alienation from the Republican party which had elected him had reached the point of direct opposition. There was objection to the limitation of the franchise in the Nebraska Constitution to white inhabitants. Finally a bill was introduced in the Senate which provided that the State could be admitted on condition that there should be no denial of the elective franchise or of any other right to any other person, by reason of race or color, excepting Indians not taxed. The bill passed the Senate and House, but was vetoed by the President. It was brought up again on the 5th of December and debated. It was passed by both houses and again the President vetoed it, claiming in his message to the Senate that Congress was attempting in an unauthorized way to regulate the elective franchise by making it a condition that there should be no denial of this franchise to any person by reason of race or color. He called attention to the fact that the Nebraska Constitution was not formed in accordance with the provisions of the Enabling Act, and that the very small majority in favor of statehood suggested that it was very doubtful whether the vote expressed the real wish of the people. He believed also that Nebraska was not yet large or wealthy enough to support the burden of a State government.

The bill was passed over his veto, and on March 1, 1867, he issued a proclamation to the effect that Nebraska was a State of the Union.

CHAPTER XIX

ADMISSION OF THE DAKOTAS AND MONTANA

WHEN the State of Minnesota was organized its western boundary was the Red River of the North and a line extending south from the foot of Big Stone Lake to the north line of Iowa. This left all the country bounded by the Big Sioux and the Red River of the North on the east, and the Missouri on the west outside the limits of any organized State or Territory. This fragment was, by common consent, called Dakota, from the nation of Indians of that name, who claimed possession of the soil.

There was at once a demand for Territorial government. This came, not so much from actual settlers in Dakota, as from those who wished to become land owners there and desired a stable government. At the time, however, the district was practically uninhabited and unknown, although it had been partially explored by Lewis and Clark in 1804 and 1806 in their journeys to and from the Pacific. There were scattered settlers in the Missouri valley and a colony of Scotch emigrants had settled at Pembina in 1812, where there had been since 1780 a French trading post, but beyond this the land was a wilderness.

It was very evident that this condition would not long continue and that the westward migration would soon make populous the fertile plains west of the Red River of the North. This movement began as soon as the first cession

of Indian lands was made in 1858, when the government acquired from the aborigines twenty-five thousand square miles of territory lying along Missouri, Niobrara, and Big Sioux Rivers. Settlement began in 1859, and much of the ceded land was taken up in the course of the next few years, either by individuals or land companies.

One such company, known as the Dakota Land Company, was organized at St. Paul. Another of importance was the Western Town Company of Dubuque, Iowa. These two companies entered the valley of Big Sioux River in the spring of 1857 to select the best spots for town sites. Both selected as one of the places of settlement a point on the river which became the site of Sioux Falls, which they proposed to make the capital of the future Territory.

Small settlements were begun at other desirable places. Sioux Falls and Yankton became rivals for the location of the future capital. Of the two settlements, the former was the more enterprising and aggressive, though smaller in point of population. The settlers on the Missouri contained a larger proportion of Scandinavians, who were more interested in making a living than in discussing political questions.

Meanwhile immigration and the coming in of capital was greatly delayed by the lack of any organized government. In order that this might be secured, Mr. A. G. Fuller was sent to Washington in 1858 to represent the interests of the settlers. He, of course, had no legal standing in Congress, but was treated courteously and had frequent interviews with the Committee on Territories. His effort was to secure the introduction of a bill for the organization of the Territory of Dakota, but he failed in this.

When the settlers saw that there was no hope of present recognition from Congress, they organized a government of their own. A convention met in Sioux Falls City in 1859 for the purpose of forming a temporary government which should continue in existence till a permanent one should be authorized from Washington. The administrative

Lewis Cass. *From a photograph in the collection of Colonel C. M. Burton, of Detroit.*

organization of the former Territory of Minnesota was accepted as the model and a committee was appointed to modify this so as to make it applicable to the needs of Dakota. Nominations were made for the offices of governor, secretary, and delegate to Congress. Candidates for these three offices were also proposed by a convention which met at Yankton and represented the Missouri valley, but the Sioux Falls City candidates were elected, and that city became the temporary capital.

Mr. S. J. Allbright, editor of the first newspaper in Dakota, was elected governor, J. M. Allen, formerly of Ohio, Territorial secretary, and J. P. Kidder, formerly lieutenant-governor of Vermont, became Territorial delegate. Mr. Kidder went to Washington and was given an honorary seat in the House. Like his predecessor in the same position, he unsuccessfully urged the claim of Dakota before the committee on Territories.

The Legislative Assembly came together in the winter of 1859 at Sioux Falls City and enacted laws for the government of Dakota and petitioned Congress for Territorial organization. The legislature then adjourned. It was not a session of great importance because there were very few people present, and Territorial government was sure to come in time; but it is interesting as an illustration of the ease with which these western Americans could govern themselves when thrown on their own resources. They had the previous experiments in Territorial government to serve as examples, and they simply used common sense in applying their knowledge to the existing conditions.

Dakota became a Territory by the organic act passed in February, 1861, and approved by the President on March 2d. It was the largest organized territory in the United States, extending west to the Rocky Mountains, comprising nine degrees of latitude and thirteen degrees of longitude, and having an area of about three hundred and fifty thousand square miles. When it became a Territory it included all Nebraska Territory north from the forty-third parallel,

and that portion of Minnesota Territory west of the Red River of the North which was not organized into a State in 1858.

But Dakota suffered changes in outline. In 1863, that part of it west of one hundred and four degrees was set off to form the Territory of Idaho. In 1864, it received back the portion between the forty-third and forty-fifth parallels and the one hundred and fourth and one hundred and eleventh meridians, and an additional section between the forty-first and forty-third parallels and the one hundred and fourth and one hundred and tenth meridians which were given up in 1868 to form Wyoming Territory.

In this imperial domain in 1861 there were less than twenty-five hundred whites, making fewer than an average of one white inhabitant to a hundred square miles of territory. It was the home of wandering Indian tribes, and only a small part of the land was open to settlement at the time of the organization of the Territory.

President Lincoln appointed William Jayne, M. D., governor of the Territory. He was at the time only thirty-five years of age, and had been a practising physician in Springfield, Illinois, a fellow townsman and an intimate friend of Lincoln. Under his direction a legislature was elected, which met on March 17, 1862, and continued in session sixty days. This body enacted a body of Territorial laws, and located the capital at Yankton.

The new Territory did not grow rapidly, for two reasons: it was organized just at the time when the Civil War claimed all the energy of North and South alike, and little thought could be given to the forming of new communities. A second reason was the determined hostility of the Sioux, who repeatedly massacred settlers and destroyed their homes. Dry seasons and crop failures were frequent.

Newton Edmunds, a native of New York, was the second Governor of Dakota; he held the office from 1862 to 1866, and showed great skill and wisdom in dealing with the difficult Indian problem. He visited the Sioux and succeeded

in pacifying them, and at later periods he also rendered valuable service to the national government in dealing with the Indians. Soon after the truce with the Sioux was arranged, immigration increased, so that by 1869 the population had probably reached twelve thousand.

In July, 1874, gold in paying quantities was discovered in the Black Hills, and there was a rush of prospectors to this place. As it was an Indian reservation, the United States troops attempted to keep out the gold seekers, but in spite of this opposition miners entered in 1875 and began work. Deadwood, Rapid City, and Hill City were quickly formed. In 1876, treaties were made with the Indians by which the United States gained possession of the auriferous lands, and thousands of miners entered the new Eldorado.

In the great Territory of Dakota all that was needed for growth was railroad facilities. The period of railroad building began in 1872, and continued rapidly from that time until the Territory was well supplied with means of transportation. A great increase in population followed the building of the railroads, so that by 1880 there arose a movement for statehood. With this came the demand that the Territory should be formed into two States. There was no precedent for doing this, though there had been cases which were somewhat similar. There had been many instances where a State had been formed from a previously existing Territory of the same name, but none where the people had demanded that the existing Territory should be divided into two States nearly equal in area. Of the two, the section now known as South Dakota was the more populous and was the leader in this movement for division. The demand from what is now North Dakota was equally urgent, though not so early, because in 1870 the population of that part of the Territory was only two thousand. In the next fifteen years the population increased with great rapidity. Its claims were not pressed so strongly, because it was realized that if the southern part of Dakota could not succeed there was no hope for the less populous northern half.

In January, 1871, the Territorial legislature petitioned Congress for a division of Dakota on the line of the forty-sixth parallel. Another effort for a division was made in 1872 and again in 1874, with the request that the northern Territory should be called Pembina. In 1877, and again in 1881, this effort was repeated.

In the winter of 1882 and 1883 a bill was passed by the Territorial legislature to form a constitution for South Dakota; the governor withheld his signature and the bill did not become a law, but the popular interest in the movement was so great that delegates were elected and a Constitutional Convention was held at Sioux Falls in September, 1883. This body formed a constitution, which was adopted by a popular vote, and, with the petition for admission, was unsuccessfully presented to the Committee on Territories.

At the session of the Territorial legislature in 1885, in response to many memorials from South Dakota, an act was passed on March 9th to provide for a Constitutional Convention preparatory to the admission into the Union of that part of the Territory south of the forty-sixth parallel. This act provided for a convention to assemble at Sioux Falls for the purpose of framing a constitution, republican in form, and performing all other things essential to the preparation of the Territory for making application to the general government for the admission of such part of the Territory into the Union.

The delegates were chosen under this act and came together at Sioux Falls September 8, 1885, and formed a constitution for the proposed State. This was submitted to the people November 1, 1885, and was adopted by them by a majority of eighteen thousand five hundred and sixty-one.

These persistent efforts for the division of the Territory had a reasonable basis. There were few common interests between its northern and southern sections because of the great distance between the settlements. Unfortunately for the unity of the State the settlements, instead of beginning

at some one point and spreading from that, had begun at almost the same time in the extreme north around Pembina, and near the extreme south. They were, therefore, separated by a distance of hundreds of miles with no direct method of communication. This difference was accentuated by the building of the railroads, which went in a nearly direct line east and west. The settlements in the northern and southern parts did not approach each other, but grew up along the lines of the railroads, the two lines of settlements remaining hundreds of miles distant from each other. At the time of application for statehood, 1883, there was no railroad connection between northern and southern Dakota except by way of St. Paul.

Then again it was claimed that agriculturally they were different. The north was destined to become a great wheat field in close railroad connection with Minneapolis and St. Paul, which furnished a market for the wheat. The south was pastoral and agricultural, divided up into small farms in direct communication with Chicago and St. Louis.

There was also a decided difference between the people of the two sections. They generally came from the same parallel of latitude in which they settled. The tastes and habits of the northern and southern people were different. From the first the two sections had been prejudiced against each other and had always had the belief that the north and south were to have separate governments. This was shown in the early establishment of the public institutions in the two sections, each division having its own agricultural college, prison, etc.

When the apparent need was so great and the desire for statehood was so frequently expressed it seems strange that the request was not more readily granted. The Committee on Territories in 1886 reported that the movement in Dakota was irregular and without precedent; the right to create Territorial governments within the public domain, to fix their boundaries, and to provide for their admission into the

Union rested solely with Congress. That body might, if it chose, ratify proceedings taken in a Territory looking to its admission into the Union. It was stated that Dakota was not too large for one State, because both Texas and California were larger. To this the answer was made that Texas came into the Union with the privilege of being made into five or six States, and that California, Colorado, and other Western States of large territorial extent were mountainous, and therefore contained much land which could never be cultivated, while nearly all Dakota was suitable for agricultural purposes.

It was stated by the Committee that the rule for the admission of new States into the Union had not been uniform. Of the twenty-five new States admitted up to this time, fifteen were taken into the Union in pursuance of Enabling Acts passed by Congress. In the case of the ten other States there were peculiar circumstances attending the admission of each. While the movement resulting in the admission originated in the proposed States, yet there was not a single instance in which a Territory had inaugurated a movement looking to the formation of two States out of the area of which it was composed. There had not been heretofore any precedent for the admission of a part of an organized Territory into the Union as a State under proceedings originating in the Territory.

Again it was objected that it would be manifestly unjust to the people of the other States to make two States of Dakota, because it was doubtful if the population of these two would ever be as large as that of the average State.

After a long struggle, by the Omnibus Bill of February 22, 1889, so called because it authorized also the formation of State governments by Washington and Montana, Congress provided for the division of Dakota into two States and authorized the formation of governments and constitutions.

The Enabling Act was approved by President Cleveland on February 22, 1889. It provided that the Territory

should be divided into North and South Dakota by an east and west line on the seventh range, State survey.

Constitutional Conventions were to meet in Bismarck for North Dakota, and Sioux Falls for South Dakota, to form State constitutions. These were to contain the usual conditions. They must grant toleration in religious sentiment, assume the payment of the Territorial debts by the respective States, and maintain a system of free public schools. The conventions were to appoint a joint commission to apportion the public debt and divide the Territorial property between the new States. The delegates elected to the Constitutional Conventions assembled in each Territory on July 4, 1889. The two conventions formed constitutions of which the following are some of the principal features:

The land grants were especially noteworthy. Every sixteenth and thirty-sixth section of land in the proposed States were appropriated for the support of public schools, and were never to be sold for less than $10 an acre. In addition to this, as soon as the States were admitted, fifty sections of the unappropriated land within the States were to be set aside for the purpose of defraying the expense of buildings for the use of the State governments. There had been liberal grants to Dakota Territory by the national government for university and other purposes, and these were now confirmed. South Dakota granted forty thousand acres for a School of Mines, and the same amount respectively for a Reform School, Agricultural College, Deaf and Dumb Asylum, and University, and twice this amount for State Normal Schools. For other public buildings and educational and charitable purposes two hundred and twenty thousand acres were granted.

North Dakota had an area of seventy-one thousand nine hundred square miles, and South Dakota contained seventy-six thousand six hundred, so liberal appropriations were desirable. The wise foresight of Manasseh Cutler and his associates in the Ohio Company had reached its legitimate

results. In these lavish gifts the government was only carrying out Cutler's original policy. The land grants for educational purposes alone in North and South Dakota would make a good sized State; and profiting by the experience of earlier States in the management of school lands and school funds, South Dakota has an educational fund of $27,000,000 at the lowest estimate, while North Dakota's reaches $30,000,000.

In both Dakotas there were elaborate provisions for the safety of the school fund, and if there should be any loss it must be made good by the State. The school lands might be sold or rented, but the rents must be paid in advance. Provision was made for the careful investment of the funds.

The county was given an important part in local government, and was provided with officers elected for two years. The town and county organizations were like those of Wisconsin rather than New England.

Both North and South Dakota treated very fully of corporations in their constitutions. The rights of the State were carefully guarded; a comparison of the sections regulating these with the corresponding sections of the earlier constitutions of the more eastern States gives an interesting view of the growing distrust of these organizations. Both constitutions gave considerable space to the railroad question and attempted to protect the people against unjust discrimination.

Like other parts of the Louisiana Purchase, the present State of Montana went through many changes of government and was a part of several different Territories before it reached its present condition. It was originally a part of the great French claim, based on discovery and exploration. In 1763, it was ceded to Spain, and receded to France in 1801, only to be transferred to the United States with the rest of the Louisiana Purchase. It became a part of the Territory of Louisiana in 1805, of Missouri in 1812, of Missouri and Oregon in 1848, of Washington in 1853, of Nebraska in 1854, of Dakota and Washington

in 1861, of Idaho in 1863, and became the Territory of Montana in 1864.

The first explorers in Montana of whose work any record has been preserved were Sieur de la Verendrye and his sons, who explored the upper waters of the Missouri, and reached the Rocky Mountains in 1742 and 1743. Doubtless these northern waters were traversed by wandering French hunters and trappers before and after this date, but they left no record of their journeys, and nothing is added to our knowledge of this Territory until the expeditions of Lewis and Clark. The knowledge gained by their explorations rather retarded than encouraged immigration. There was better agricultural land to be had farther east. It was so far north that it was supposed to be very cold, and the difficulty of communication with the east was very great because of the distance. If it had depended upon its agricultural possibilities, Montana would have remained for many years longer than it did the home of roving Indian tribes, unmolested by the white settlers.

For many years after the journey of Lewis and Clark it was valued chiefly for its fur trade, and the white inhabitants were, in the main, trappers. A trading post was built on the Yellowstone in 1809, and others, especially those of the American Fur Company were established throughout the region during the second quarter of the nineteenth century.

Jesuit missionaries came into Bitter Root Valley in 1840, and began work among the Flathead Indians, establishing a mission at the place where Fort Owen was afterward built.

Thus the land remained for a half century after its acquisition by the United States, and it might have continued for a century to be the home of the wandering Indian and the fur trader, but for the discovery of gold in 1852. It had, possibly, been obtained in small amounts earlier than this, but in 1862, the precious mineral was found in paying quantities in the neighborhood of Bannock. In the autumn, the town of Bannock was laid out, and by January, 1863, it had a population of five hundred. This was the

beginning of the rapid development and settlement of the Montana gold fields. The report of the rich finds in the neighborhood spread rapidly, so that in 1863 there was a large immigration into this part of Montana. In the summer of that year, Alder Gulch began its remarkable output of gold. In 1864, rich placer mines were discovered in various parts of the Territory. Virginia City was built, and in 1865 it had a population of ten thousand.

By 1865, mines of great richness, scattered through a territory one hundred and fifty miles long and one hundred miles wide had been discovered. The gold bearing area in Montana has been largely increased by later discoveries.

These gold discoveries had a marked influence on the development of Montana and distinguish it at the very start from the Territories already considered. In the earlier ones the growth at the first was gradual and the settlers were for the most part quiet, peaceful, law-abiding citizens, who came to the new Territory to make homes for themselves and their children, and to accumulate a competence by the laborious process of taming the wilderness and cultivating the prairie. They were men who, as a rule, were conservative, bringing with them the peaceful customs of their eastern or European homes.

But the opening of the gold fields in Montana brought a repetition of the scenes familiar in the rush to the gold fields in California in 1849. Fabulous fortunes had been made by some without great labor, and those who had been disappointed in California, Idaho, and Colorado, as well as those in the eastern States who were desirous of suddenly acquiring wealth, flocked by hundreds to the newly discovered gold fields. Many of these early settlers were honest men and hoped to gain wealth by honorable means, but there were very many who were not particular about the way in which they acquired it.

That first settlement in Bannock, where five hundred men gathered in the winter of 1863 and 1864, contained many reckless adventurers who figure conspicuously in the

early criminal annals of the Territory. It was difficult to get United States officials who were strong enough to enforce the law, and many circumstances combined to shield the criminal. So the example of California was followed, and the respectable miners united for self-protection. Men suspected of crime were given trials by Vigilance Committees, and swift and generally just punishment was measured out. In 1863–1864, murders in the Territory were frequent, but some check was placed upon these by the fact that twenty-eight outlaws were hanged within ninety days, in that winter, by the Vigilance Committees.

In 1863, the Territory of Idaho was established. It included Montana. But the rapid increase in population made it desirable that Montana should have a separate Territorial government. Sidney Edgerton, Chief Justice of Idaho, went to Washington and succeeded in getting this division accomplished. He was a candidate for the position of governor of the newly created Territory, and he succeeded in obtaining this office from President Lincoln. But more than the usual frontier difficulties awaited this Territorial governor. He was confronted with the lawlessness of the mining camp which has just been mentioned. In addition to this, when the Civil War was closed, and even before that time, when it seemed to some of the southern men that their cause was already lost, there was a comparatively large immigration from the States of the Confederacy into Montana, an immigration much larger in proportion to the whole population than there was in the other States and Territories on the northern frontier. Many of these southerners brought into Montana their sectional feelings. Threats were made that any man who raised the Star Spangled Banner would be shot. Edgerton raised it and lived.

Soon after Edgerton's entrance upon his official duties in 1864, the election of a Territorial legislature occurred and its first meeting was held at Bannock on December 12, 1864. In this there was for a time a deadlock, as a former

member of the Confederate army was refused admission because he would not take the required oath of allegiance to the Union. Clashes between northern and southern elements were frequent owing to the recent close of the Civil War; here the men who had a few months before worn the blue and the gray on the battlefield were working in the same mining camp.

The life of a mining camp is abnormal and must from its very nature be temporary. The work is uncertain because no one knows how long a mine may prove of value. There is no encouragement to lay out streets or put up costly public buildings, such as schools and churches, because when the gold is no longer found in paying quantities, everything must be abandoned. A man does not care to take his family to such a place, and family life is, therefore, almost wholly lacking. Local interest, civic pride, and the desire to found a home which are such strong inducements to stability in a community do not usually exist there.

It was found that not only was Montana one of the greatest gold producing regions that the world had ever known, but that it was also rich in mines of silver and copper. As the population in the mining regions rapidly increased, a demand came for agricultural products and the possibilities of Montana as a farming section developed. The river valleys were first used and with the increasing demand for food stuffs it was found that hundreds of thousands of acres, once deemed unfit for cultivation because of aridity, could be made to yield abundant crops by the help of irrigation. Next, the lands beyond the reach of possible or at least profitable irrigation were found to be some of the best ranch lands in the world, so that Montana was rapidly transformed, and the crudeness and rawness of the mining camps of the early sixties passed away, and Montana, with the development of its stock raising and agricultural possibilities has quickly passed from the reign of vigilantes and the highwaymen to the peaceful and orderly habits of an older settled State.

Money was freely spent for schools, churches, and public improvements, and its cities will compare favorably in these respects with those having a longer history. There still remain the problems common to the widely scattered communities in the West, which arise because a small population is spread out over an immense area,—problems in education and especially in political life, which will find their solution in the increasing settlement and development of the State.

An important event in the growth of the Territory and in bringing it into closer touch with the east was the completion of the Northern Pacific Railroad in 1883.

The next year there was a demand for statehood. A Constitutional Convention met on January 14th, and adjourned February 9th. The constitution formed by this body was submitted to the people and accepted by them November 4th. This instrument was submitted to Congress, but statehood was delayed until February 22, 1889, when an Enabling Act was passed by Congress. In this Act to enable the people of Montana to form a State government the general provisions were the same as had been made in the case of the Dakotas. There were liberal appropriation of lands for public purposes in addition to those already given to the Territory. A convention was to meet at Helena and form a constitution which must give perfect toleration to religious sentiment, and establish and maintain a system of public schools free to all the children in the State, and which should be free from sectarian control. The land grants, as in the case of the Dakotas, were liberal, especially for educational purposes. It is estimated that the school fund of Montana arising from these grants will aggregate $52,000,000.

The Constitutional Convention met at Helena on July 4, 1889, and, in a session extending to August 17th, drafted a constitution, which was submitted to the people and adopted on October 1, 1889, by a vote of twenty-four thousand six hundred and seventy-six to two thousand two hundred and seventy-four. On the 8th of November, Montana was

admitted into the Union, by proclamation of President Harrison.

Some of the points of interest in this Constitution were as follows: Montana made each county a senatorial district with one senator, and each county was to be represented in the other House according to its population. In this way, the Constitution of the United States was closely followed and emphasis placed upon the county as an administrative unit, possibly a reflection of the strongly Southern make-up of Montana. It was provided that a candidate for the legislature must have been a resident of the State for one year. A candidate for the Senate must have attained the age of twenty-four years. The governor's term of office was to be four years instead of two, as in Dakota, and he must have resided in the State two years. He had the ordinary powers of a State governor, and could veto parts of a bill to which he objected. The salary of the governor was $5,000 per year. This amount is larger than the gubernatorial salary in other States of like population, but it was made so because of the cost of living in Montana and because of the comparative ease with which men of first-rate ability could command that salary in other occupations.

Passing over other features, the anti-trust clause in the Montana Constitution is of interest. It provides that no corporation, stock company, person, or association of persons shall directly or indirectly combine or form a trust or make any contract with any person or persons, corporation or stock company, foreign or domestic, for the purpose of fixing the price or regulating the production of any article of commerce or of the product of the soil for consumption by the people, under penalty of law, forfeiture of franchise, or of the right to carry on business within the State.

Montana cannot incur a State debt of more than $200,000 unless in time of war, to repel invasion or suppress insurrection. A county cannot become liable for more than $10,000, unless by special vote of the county electors. The legislature cannot authorize any lottery scheme.

A marked characteristic of the Constitutions of Montana and Dakota is their great length; in them, the powers of each department of government are very fully defined, and many safeguards which were considered unnecessary in constitution making in the early part of the century are introduced. They reflect in part the growth of the country and changed business methods.

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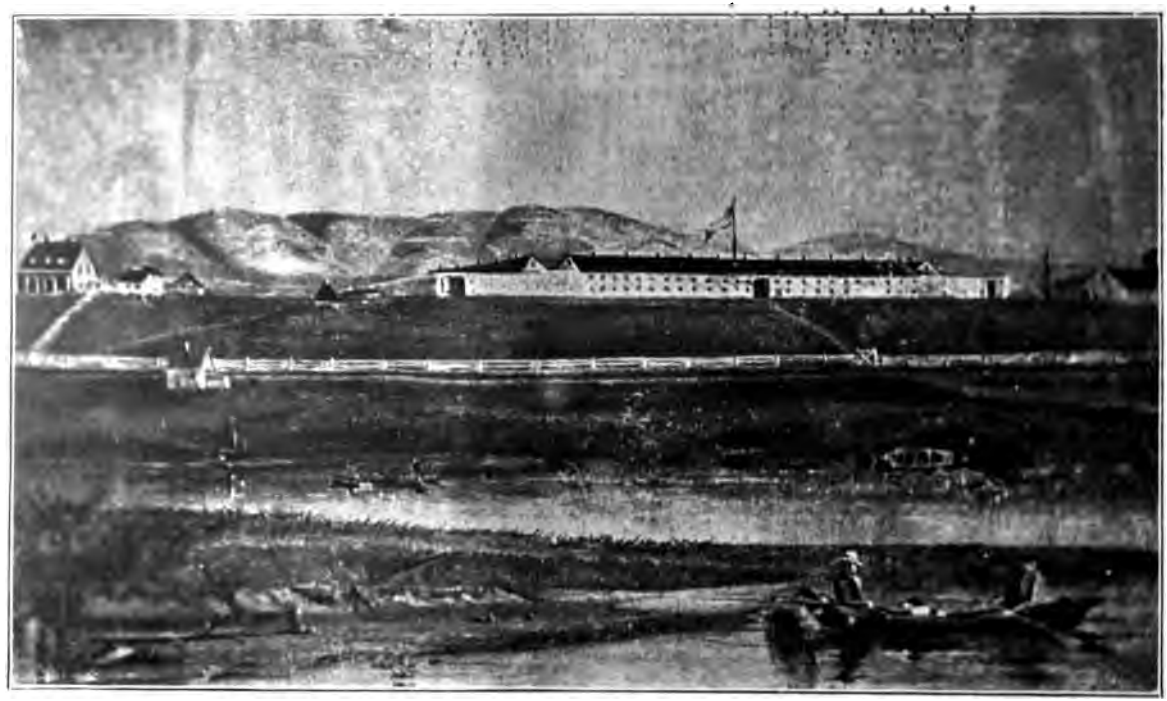

Fort Crawford, Prairie du Chien, Wisconsin, built in 1826. For a long time Forts Crawford and Snelling were the principal outposts of the United States along the upper Mississippi River. *From a painting in possession of the Wisconsin Historical Society.*

CHAPTER XX

THE AMERICAN SYSTEM OF TERRITORIAL GOVERNMENT

THE United States has from time to time been confronted with the problem of the government of new territory. This has been one of the most important and interesting questions from the day when the federated States settled so wisely the conflicting claims to the western domains to the present, when the treatment of the recently acquired foreign territory is of vital importance. This westward expansion, which involved the question of the government of the new territory, did not greatly interest the men who agreed to the Articles of Confederation. They were more concerned about finding some way by which the Atlantic States could work in harmony than in providing for future contingencies.

The framers of the Constitution provided that new States might be admitted into the Union, and that Congress should have power "to dispose of and make all needful Rules and Regulations respecting the territory of the United States." There was no right expressly given to acquire new lands, but this was recognized by the majority to be an attribute of sovereignty. The Union had the power to carry on war and make treaties. Treaty making often meant the acquisition of territory. This has proved to be the case, and frequently since the formation of the Constitution the nation has seen reason to add to its territory by purchase or conquest. The problem of government became a pressing one, and this has been, as a whole, wisely solved.

The first experiment was greatly facilitated by the fact that those for whom the government was to be made were people from the eastern section, who had already had experience in self-government.

In Louisiana a different problem was presented, because the people were largely of an alien race, and a military despotism was for a time established, as it seemed to be necessary. How the newly acquired territory should be organized had to be decided by circumstances. It was not always wise to give the people the full privileges of American citizens. This principle, as old as the Louisiana Purchase, has been again enunciated in the treatment of the Insular cases in a decision of the Supreme Court in 1901; Justice Brewer said, in announcing the judgment of the court: "A false step at this time might be fatal to the development of what Chief Justice Marshall called the American Empire. Choice in some cases, the natural gravitation of small bodies toward large ones in others, the result of a successful war in still others, may bring about conditions which would render the annexation of distant possessions desirable. If these possessions are inhabited by alien races, differing from us in religion, customs, laws, methods of taxation, and modes of thought, the administration of government and justice according to Anglo-Saxon principles may for a time be impossible, and the question at once arises whether large concessions ought not to be made for a time, that ultimately our theories may be carried out, and the blessings of a free government under the Constitution extended to them. We decline to hold that there is anything in the Constitution to forbid such action."

Sometimes the annexed territory has passed at once to statehood; at other times there has been a long period of waiting; but the government has from the beginning been guided in its administration of acquired territory by the principle that it is contrary to the spirit of this nation to hold colonies, and that all acquired territory is to be advanced toward statehood as rapidly as can be done with

benefit to itself and safety to the nation; and in every case so far the nation has been true to this principle, except that the Territorial condition has sometimes been prolonged because of sectional politics.

A Territorial government is legally a temporary arrangement. How long this time of waiting for fuller organization to State privileges must be depends upon whether the Territorial subjects are such men as Manasseh Cutler and his fellow Americans from Massachusetts and Virginia, or the Sultan of Sulu and his subjects. Naturally, the latter will be slow in absorbing Anglo-Saxon ideas of self-government.

Noticing now more particularly the government and administration of the Territories, we find that the foundation for the Territorial system was laid in the Ordinance of 1787. To sum up what has already been presented, the Ordinance provided that a governor and judges should be appointed by Congress. After the adoption of the Constitution, this power of appointment passed to the president. The governor and judges constituted a legislative body to form a code of laws, but were limited to the selection of laws already in force in the States. Congress had the right to an absolute veto on every legislative act. When the population reached five thousand the Territory could enter upon the second stage, in which the people elected their own legislature, but Congress still had the veto power. Under this Ordinance, the Northwest Territory was organized into separate Territories.

Complications arose when it was necessary to organize territory beyond the original limits of the United States, and many questions were raised as to how that could be done under the Constitution. This was debated during the presidency of Jefferson. It seemed necessary at the time for the President of the United States to take over with very little change the power which had belonged to the Spanish ruler of Louisiana. But this temporary despotism gave way to a system similar to that which obtained in the earlier Territories, modified by the different conditions.

The governor of Louisiana was appointed by the president for three years, and a secretary for four years. The Territorial legislature was composed of the governor and a Legislative Council of thirteen members who were appointed annually by the president, but every legislative act became null and void if vetoed by Congress. Special laws for Louisiana Territory were passed by Congress. Out of Upper Louisiana, Missouri Territory was organized in 1812, with a governor, Legislative Council, and House of Representatives. The last was elected by the people.

All the present United States, except the original thirteen States and Vermont, Maine, Kentucky, West Virginia, Texas, and California, have passed through the Territorial period. Of these, all except Texas and California were originally parts of other States, while Texas and California were admitted to statehood without Territorial organization.

How far Congress had the right of legislation for the Territories became a disputed question when action was taken for the admission of Missouri into the Union. It was asked whether Congress had a right to impose any restriction. Objection was made that any restriction would be inconsistent with the sovereignty of the State about to be admitted into the Union.

In the act passed for the purpose of admitting Missouri, March 6, 1820, there was a clause prohibiting slavery in all the territory obtained from France north of thirty-six degrees thirty minutes north latitude, except Missouri. Congress made this restriction in relation to the territory outside of Missouri on the ground that it had a right to make all needful regulations respecting the territory of the United States.

The power of Congress over the Territories is defined by the following decision of the Supreme Court in the case of the Mormon Church against the United States:

"The principal questions raised are, first, as to the power of Congress to repeal the charter of the Church of Jesus Christ of Latter Day Saints, and, secondly, as to the power

of Congress and the courts to seize the property of said corporation and to hold the same for the purposes mentioned in the decree. The power of Congress over the Territories of the United States is general and plenary, arising from and incidental to the right to acquire the territory itself and from the power given by the Constitution to make all needful rules and regulations respecting the territory or other property belonging to the United States. It would be absurd to hold that the United States has power to acquire territory and no power to govern it when acquired. The power to acquire territory other than the territory northwest of the Ohio River (which belonged to the United States at the adoption of the Constitution) is derived from the treaty-making power and the power to declare and carry on war. The incidents of these powers are those of national sovereignty, and belong to all independent governments. The power to make acquisitions of territory by conquest, by treaty, and by cession is an incident of national sovereignty. The Territory of Louisiana, when acquired from France, and the Territories west of the Rocky Mountains, when acquired from Mexico, became the absolute property and domain of the United States, subject to such conditions as the government, in its diplomatic negotiations, had seen fit to accept relating to the rights of the people then inhabiting those Territories. Having rightfully acquired said Territories, the United States Government was the only one which could impose laws upon them, and its sovereignty over them was complete. No State of the Union had any such right of sovereignty over them; no other country or government had any such right. These propositions are so elementary, and so necessarily follow from the condition of things arising upon the acquisition of new territory that they need no argument to support them. They are self-evident."

And again, in the case of the National Bank against the County of Yankton, Chief Justice Waite gave the opinion of the court in these words which showed clearly that the

sovereignty over the Territory was in the hands of the United States, not of the people of the Territory:

"All territory within the *jurisdiction* of the United States not included in any State must necessarily be governed by or under the authority of Congress. The Territories are but political subdivisions of the *outlying dominion* of the United States. Their relation to the general government is much the same as that which counties bear to the respective States, and Congress may legislate for them as a State does for its municipal organizations. The *organic law* takes the place of a *constitution* as the fundamental law of the local government. It is obligatory on and binds the Territorial authorities; but Congress is supreme, and for the purposes of this department of its governmental authority has *all the powers of the people of the United States*, except such as have been expressly or by implication reserved in the *prohibitions* of the Constitution. . . .

"Congress may not only abrogate laws of the Territorial Legislatures, but it may itself legislate directly for the local government. It may make a void Act of the Territorial Legislature valid, and a valid Act void. In other words, it has full and complete legislative authority over the people of the Territories and all the departments of the Territorial governments. It may do for the Territories what *the people*, under the Constitution of the United States, may do for the States."

The Territorial governments were established and defined by Organic Acts passed by Congress. These Organic Acts have continually increased in length, but in the essential features are alike. The last of these for the establishment of a Territorial government in this country shows the result of the experience of the nation through a century of Territorial growth. An abstract of the main points in the Oklahoma Organic Act, leaving out what is of only local application, will show the present method of Territorial administration. The first section defines the boundaries of the Territory, followed by the statement that the United

States retains the right to change these boundaries or attach any portion of the Territory to any other State or Territory without consulting the inhabitants.

The executive power is vested in a governor who holds his office for four years "and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States." The governor must reside within the Territory and be commander-in-chief of the Territorial militia. He has power to grant pardon for offences against Territorial law and reprieves for offences against the law of the United States until the decision of the United States is known. He commissions all officers who are to be appointed under the laws of the Territory, and he is responsible for the proper execution of the laws.

A secretary is also appointed who holds office for four years, whose duty it is to record and preserve all laws and proceedings of the Legislative Assembly and all executive acts and proceedings of the governor. He must also send copies of the laws and journals of the Legislative Assembly to the president, secretary of the interior, speaker of the House of Representatives, and president of the Senate. He temporarily acts as governor in the absence or inability of that official.

The legislative power is vested in the governor and Legislative Assembly, the latter consisting of a Council and a House of Representatives. The Council consists of thirteen members elected for two years. The House of Representatives consists of twenty-six members elected also for two years. There are biennial sessions of the legislature, and the session is limited to sixty days. Counties and county seats are designated in the Organic Act. At the first election the people chose by vote the names for their respective counties.

The Organic Act provides for the taking of a census before the first Territorial election unless the United States has done so. The first election is to be held in the places and at the time appointed by the governor.

"All male citizens of the United States, above the age of twenty-one years, and all male persons of foreign birth over said age who shall have, twelve months previous thereto, declared their intention to become citizens of the United States, as now required by law, who are actual residents at the time of the passage of this Act of that portion of said Territory which was declared by proclamation of the President open to settlement . . . shall be entitled to vote at the first election in the Territory."

The right of suffrage and office holding can be exercised only by citizens of the United States over twenty-one years of age, and aliens who have legally declared their intention to become citizens. No one can be denied the franchise because of race, color, or previous condition of servitude.

The legislature can pass laws on all rightful subjects of legislation, not contrary to the Constitution and the laws of the United States, but United States property cannot be taxed. There are a number of other laws relating to taxation by which the power of the legislature is restricted. The veto power of the governor on bills which have passed the Council and House of Representatives is essentially like that of the president's veto on Congressional bills.

Township, district, and county officers are appointed or elected by the governor and Legislative Assembly if not provided for in the Organic Act. All other officers are appointed by the governor with and by the consent of the Council.

The legislature cannot issue any bond, scrip, or other evidence of debt for railroad construction. No person can hold or be appointed to any office which was created or of which the emoluments were increased while he was a member of the legislature.

The judicial power is vested in a Supreme Court, District Court, Probate Courts, and Justices of the Peace. The Supreme Court consists of a chief justice and two associate justices, any two of whom constitute a quorum. They

hold office for four years and hold a term annually at the seat of government of the Territory.

Justices of the peace do not have jurisdiction when the title or boundaries of land are in dispute, or when the debt or sum claimed is more than $100. The Supreme and District Courts respectively, possess chancery as well as common law jurisdiction, and authority for redress of all wrongs committed against the Constitution or laws of the United States, or of the Territory, affecting persons or property.

The Territory is divided into judicial districts, and a District Court is held in each county in said district by one of the Justices of the Supreme Court, who must reside in the district to which he is assigned.

Writs of error, bills of exceptions, and appeals are allowed from decisions of the District Courts to the Supreme Court. Appeals from this body may be taken to the Supreme Court of the United States when the value of the property or the amount in controversy exceeds the sum of $5000.

The Supreme and District Courts may grant writs of *mandamus* and *habeas corpus* in all cases authorized by law. Persons charged with crime and for whose arrest a warrant has been issued may be arrested by the United States marshal or any of his deputies, and must be taken for preliminary examination before a United States commissioner or a justice of the peace of the county whose office is nearest the place where the crime was committed.

An attorney for the United States is appointed for four years, who has a salary of $250 a year; a United States marshal for the Territory, also for four years, whose duty it is to execute all process issuing from the courts of the Territory. His salary is $200 a year. In addition to their salaries, these officers are allowed the regular fees. The governor, secretary, chief justice, and associate justices, attorney, and marshal are nominated and appointed by the President of the United States and are required to take an oath or make affirmation that they will faithfully perform

their duties. The governor's salary is $2,600 as governor; the chief justice and associate justices are paid $3,000 each, and the secretary has a salary of $1,800 a year. The members of the Legislative Assembly receive $4 per day while in attendance at the session, and $4 for each twenty miles travelled going to and returning from the sessions.

A delegate to the House of Representatives of the United States is elected to serve during each Congress of the United States.

Sections sixteen and thirty-six in each township are reserved for public schools.

The regulations for the government of the other organized Territories of the United States, Arizona and New Mexico are essentially the same.

The unorganized Territories are Alaska and Indian Territory. In another class are the insular possessions, made up of Porto Rico, Hawaii, the Samoan Islands, Guam, and the Philippines.

The United States governs its unorganized territory according to the varying local needs. Its greatest Territory is Alaska. It has no general legislative body, but laws are passed by Congress for its government and the necessary officers are appointed by the President of the United States. The governor resides at Sitka. In 1884, the Territory constituted a civil and judicial district, and an act was passed by Congress for the organization and administration of its government. By this act the district judges have power to appoint commissioners throughout the Territory, who are practically the local authorities, acting as justices of the peace, recorders, probate judges, and attending to other duties relating to civil and criminal affairs.

The other unorganized Territory has peculiar problems which have not yet been satisfactorily solved. The five civilized tribes,—Cherokees, Creeks, Chickasaws, Choctaws, and Seminoles,—have their own government modelled after that of the State governments, but the great increase in the white population of the Territory, which has no voice in

the government, has made this condition very unsatisfactory. Laws have been passed by Congress bringing this Territory into closer governmental agreement with the other lands controlled by Congress. An effort was made by the Curtis Law of 1898, to transfer the control of property from the tribes to the United States. By this law the President was given a veto over the acts of the tribal governments. It is only a question of time, although it may be a long time, before the lands will be assigned in severalty, and the Territory become organized like its neighbors New Mexico and Arizona, and then will be a demand for statehood, because its white population in 1900 was already more than three hundred thousand, and increasing with great rapidity.

With Oklahoma and Indian Territory we properly close our review of the process by which the Louisiana Purchase has, piece by piece, been amalgamated into the body politic of the United States. True, Oklahoma is not yet one of the States, and the future of Indian Territory is still on the knees of the gods; but before the close of the present decade it is probable that the last remnant of the vast territory ceded by France in the days of Napoleon will have gained statehood, either of itself or because of union with an existing State.

CHAPTER XXI

THE AMERICAN SYSTEM OF ADMITTING NEW STATES INTO THE UNION

A TERRITORIAL form of government is merely temporary; a State government takes its place as soon as circumstances make the change desirable. A request is generally presented to Congress by the delegate representing the Territory and this is referred to the Committee on Territories. If this reports favorably, an Enabling Act is introduced and passed. Delegates are elected to a convention in the Territory and this convention forms a constitution. This may be submitted to the people, and if it is accepted by them and found by Congress to fulfil the conditions of the Enabling Act, the State is admitted into the Union. This is the general and what might be called the normal course of action. There have been departures from it in almost every particular of its course in the admission of the different States.

The first State to unite with the original thirteen was Vermont. This had been practically an independent republic since 1777. On the 18th of February, 1791, an act was passed by Congress providing that on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and style of "the State of Vermont, shall be received and admitted into the Union, as a new and entire member of the United States of America."

Kentucky was under consideration at the same time for admission as a State of the Union. The District of Kentucky was a part of Virginia. The legislature of Virginia passed an act entitled: "An Act concerning the erection

of the District of Kentucky into an independent State," on December 18, 1789, by which consent was given to the erection of Kentucky into a separate State. A convention of delegates from the District of Kentucky petitioned Congress for admission into the Union as a new State under the title of the "State of Kentucky;" therefore that body enacted on the 4th of February, 1791, "That the Congress doth consent that the said District of Kentucky, within the jurisdiction of the Commonwealth of Virginia, and according to its actual boundaries, on the eighteenth day of December, one thousand seven hundred and ninety-two, be formed into a new State, separate from, and independent of, the Commonwealth of Virginia." "*And be it further enacted and declared*, That upon the aforesaid first day of June, one thousand seven hundred and ninety-two, the said new State, by the name and style of the State of Kentucky, shall be received and admitted into this Union as a new and entire member of the United States of America."

The third State to be admitted was Tennessee. This State was formed from the lands granted to the United States by the State of North Carolina on condition that one or more States should be made from this territory. The act for its admission contained some statements more definite than the earlier ones. The entire Territory was to form one State, and "the same is hereby declared to be one of the United States of America, on an equal footing with the original States in all respects whatever, by the name and title of the State of Tennessee." It was to have one representative in the House of Representatives until the next census, and United States laws were to have the same force in that State as in the original thirteen States.

Congress was confronted by different conditions when an application for admission came from Ohio. Hitherto the States had been formed from land which had belonged to individual States, and they were regarded as belated members of the original group. With Ohio, Congress entered upon a definite policy in its admission of States which came

into existence from territory owned and governed by the Union as a whole. As a preliminary to the admission, Congress passed an act to enable the people in the eastern division of the Northwest Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States. This is worth particular attention because it is the model which all other Enabling Acts follow.

Enabling Act for Ohio—1802. (Seventh Congress, First Session.) *An Act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes.*

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of the eastern division of the territory northwest of the river Ohio be, and they are hereby authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper, and the said State when formed, shall be admitted into the Union upon the same footing with the original States in all respects whatever.

Section 2. [Gives boundaries only.]

Section 3. *And be it further enacted,* That all that part of the territory of the United States northwest of the river Ohio, heretofore included in the eastern division of said territory and not included within the boundary herein prescribed for the said State, is hereby attached to and made a part of the Indiana Territory from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein shall be entitled to the same immunities and privileges, and subject to the same rules and regulations in all respects whatever, with all other citizens residing within the Indiana Territory.

Section 4. *And be it further enacted*, That all male citizens of the United States, who shall have arrived at full age and resided within the said territory at least one year previous to the day of election, and shall have paid a territorial or county tax, and all other persons having in all other respects the legal qualifications to vote for representatives in the general assembly of the territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the eastern division aforesaid, in a ratio of one representative to every twelve hundred inhabitants of each county, according to the enumeration taken under the authority of the United States, as near as may be, that is to say, from the county of Trumbull, two representatives; from the county of Jefferson, seven representatives, two of the seven to be elected within what is now known by [the name of] the county of Belmont, taken from Jefferson and Washington Counties; from the county of Washington, four representatives; from the county of Ross, seven representatives, two of the seven to be elected in what is now known by [the name of] Fairfield County, taken from Ross and Washington Counties; from the county of Adams, three representatives; from the county of Hamilton, twelve representatives, two of the twelve to be elected in what is now known by [the name of] Clermont County, taken from Hamilton County; and the elections for the representatives aforesaid shall take place on the second Tuesday of October next, the time fixed by a law of the territory entitled "An Act to ascertain the number of free male inhabitants of the age of twenty-one in the territory of the United States northwest of the river Ohio, and to regulate the elections of representatives for the same," for electing representatives to the general assembly and shall be held and conducted in the same manner as is provided by the aforesaid act, except that the qualifications of electors shall be as herein specified.

Section 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby

William Walker, provisional Governor of the Nebraska Territory.
From a photograph in the Library of Congress.

authorized to meet at Chillicothe on the first Monday of November next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government, or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance; and shall form for the people of the said State a constitution and State government, provided the same shall be republican, and not repugnant to the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio.

Section 6. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

Section 7. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the eastern State of the said territory, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First, That the section number sixteen, in every township, and, where such section has been sold, granted or disposed of, other lands equivalent thereto and most contiguous to the same, shall be granted to the inhabitants of such township, for the use of schools.

Second, That the six miles reservation, including the salt-springs, commonly called the Scioto salt-springs, the salt-springs near the Muskingum River, and in the military tract,

with the sections of land which include the same, shall be granted to the said State for the use of the people thereof, the same to be used under such terms and conditions and regulations as the legislature of the said State shall direct: *Provided*, The said State shall never sell nor lease the same for a longer period than ten years.

Third, That one-twentieth part of the net proceeds of the lands lying within the said State sold by Congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same, such roads to be laid out under the authority of Congress, with the consent of the several States through which the States shall pass: *Provided*, always, That the three foregoing propositions herein offered are on the conditions that the convention of the aforesaid State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by Congress from and after the thirtieth day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose, for the term of five years from and after the day of sale.

Approved, April 30, 1802.

There were many new conditions confronting Congress when the next application for admission came. This time it was Louisiana, and a demand was made that the conditions be fulfilled under which the purchase of Louisiana had been made. This promise had been made in the treaty by which Louisiana had been secured. It read: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyments of all the rights, advantages, and immunities of the United States; and in the meantime they shall be maintained and protected in the free

enjoyment of their liberty, property, and the religion which they profess."

There was a long debate in Congress over the interpretation of this article and much impatience manifested in Louisiana over the delay. Objections were urged which had not been heard when Ohio applied for admission, but an Enabling Act was finally passed on February 11, 1811. It contained provisions similar to those in the Enabling Act for Ohio and some others which had reference to the conditions which were peculiar to Louisiana. It provided that the constitution should be republican and consistent with the Constitution of the United States. A further provision was that it should secure to the citizen trial by jury in all criminal cases, and the privilege of the writ of *habeas corpus;* also that after the admission of the State, the laws which such State should pass and its records of every description should be published in the English language. The people were also compelled to disclaim all title to waste lands lying within the Territory, the said lands to belong to the United States and not subject to taxation by the State of Louisiana. But in these various provisions one of vital importance to the nation at large was omitted and this was added in the act which admitted Louisiana on April 8, 1812; "It shall be taken as a condition upon which said State is incorporated into the Union, that the river Mississippi and the navigable rivers and waters leading into the same and into the Gulf of Mexico shall be common highways and forever free, as well to the inhabitants of said State as to the inhabitants of other States and Territories of the United States without any tax, duty, impost, or toll therefor, imposed by said State."

The States admitted in the next decade did not present new features of marked interest. Precedents had been established by the admission of Ohio from the Northwest Territory, and Louisiana from the Louisiana Purchase which were followed quite closely when Indiana, Mississippi, Illinois, and Alabama were admitted. Some interest attaches

to the admission of Maine, because it had been a part of the State of Massachusetts. The second Charter of Massachusetts Bay, in 1692, had incorporated the province of Maine with the colonies of Massachusetts Bay and Plymouth, and the right of governing the District of Maine had been retained by Massachusetts until 1819. On July 19, 1819, the question of separation was submitted to the people of the District of Maine, who voted on that day by a large majority to form an independent State. No Enabling Act was passed by Congress, but a constitutional convention held a session at Portland from October 11th to October 29th. This body formed a constitution which was submitted to the people and accepted, and Maine was admitted into the Union.

Even before the admission of Maine, Missouri desired statehood, and its Enabling Act, which passed in 1820, showed the influence of the growing conflict between North and South. This Act in its eighth section contained the famous Missouri Compromise.

In 1835, the people of Arkansas desired statehood and petitioned the governor of the Territory to convene the Territorial legislature for the purpose of passing an act authorizing the election of delegates to a convention to form a State constitution. The governor did not think that a Territorial legislature had power to do this until authorized by Congress. This question was submitted to the Attorney General of the United States, who gave as his opinion that the powers of all the departments of the regular organized Territorial governments are derived from the Acts of Congress, and that Territorial legislatures cannot, without permission of Congress, pass laws authorizing the formation of constitutions and State governments. He thought that it would be entirely proper for the people to meet in primary assemblies or conventions chosen by such assemblies for the purpose of petitioning Congress to abrogate the Territorial government and admit them into the Union as an independent State. And if they accompanied their petition by a

constitution agreed upon by the primary assemblies or by conventions chosen by such assemblies, there was no objection to it, provided that such measures should be prosecuted in subordination to the existing government and in subserviency to the power of Congress to adopt, reject, or disregard them at its pleasure.

The people of Arkansas did not follow this advice and wait for the formality of an Enabling Act. They elected representatives to a convention which assembled at Little Rock on Monday, January 4, 1836. They claimed the right of admission into the Union as one of the United States of America, because they had this privilege under the Federal Constitution, and because this right had been guaranteed to them by the treaty of cession by which France gave Louisiana to the United States. This convention formed a constitution, which Congress rejected and passed the usual Enabling Act which was accepted by Arkansas on October 18, 1836.

The curious case of Michigan has been considered—in brief, Michigan claimed the right of admission into the Union under the Ordinance of 1787 as soon as the requisite sixty thousand population resided in the Territory, and, more than that, it claimed that the boundaries of the Ordinance should be strictly adhered to. Michigan formed a State constitution and governed itself as a State although it was not recognized as such by the United States. Finally, the question was settled by adding to the Territory of Michigan the northern peninsula in compensation for the southern strip, and a self-constituted convention accepted this action of the United States.

In the treaty by which Spain ceded Florida to the United States on February 22, 1819, it was agreed that "the inhabitants of the territories which his Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States."

Interpreting this clause as the people of Arkansas had understood the like clause in the Louisiana treaty, the people of the Territory elected delegates to a convention which met at St. Joseph on the 3d of December, 1838. "Having and claiming the right of admission into the Union as one of the United States of America, consistent with the principles of the Federal Constitution, and by virtue of the treaty of amity, settlement, and limits between the United States of America and the King of Spain, ceding the provinces of East and West Florida to the United States," they agreed to form themselves into a free and independent State by the name of Florida.

Like Florida, Iowa did not wait for an Enabling Act, but formed its constitution and State government on October 7, 1844. A single Enabling Act was passed for both Iowa and Florida on March 3, 1845.

Texas had been a part of Mexico, and at the time of admission into the Union was an independent republic. This was annexed to the United States by joint resolution on March 1, 1845, with the understanding that it should be erected into a new State, called the State of Texas, with a republican form of government, to be adopted by the people by means of a convention of deputies. On the 4th of July, 1845, Texas agreed to the terms of annexation. A constitution was adopted and a government formed in accordance with the provisions of the joint resolution of the 27th of August, and by another joint resolution Texas became a State of the Union on December 29, 1845.

Passing over the States in the admission of which no new questions were involved, we come in the middle of the nineteenth century to the great questions which centred around the struggle in regard to slavery. The question now was, how far could a Territory, in its Territorial condition, determine what its institutions should be when it gained statehood? Popular sovereignty was tried in Kansas, and failed as we have seen in the preceding chapter.

Nevada was incorporated into the Union in 1864, and showed in its constitution the effect of the Civil War by declaring by an irrevocable ordinance that there should be no slavery or involuntary servitude within its limits.

Nebraska, coming in in 1867, had a similar clause, by which there should be no denial of the elective franchise because of color.

These Enabling Acts have binding power on the people of the Territories. Congress governs the Territories and has power to say when and how they shall enter the Union. Every provision of the Enabling Act must be adhered to. States have from time to time formed constitutions and applied for admission, without a prior permission from Congress. It was still in the power of Congress to admit them or not as it saw fit. The formation of the constitution carried with it no right to recognition by Congress.

Delays have frequently come even after a Territory has the requisite number of inhabitants for admission into the Union. Congress must consider the two questions: Is it best for the Territory to become a State? and is it for the best interests of the nation that the applicant be admitted? Sometimes a Territory which has the required number of inhabitants is kept from statehood because its people are not sufficiently familiar with republican institutions and well enough acquainted with the government of the United States, or so in sympathy with it, that the admission seems wise. Such cases are those of Arizona and New Mexico. The conditions are such in these Territories, which came to the nation from Mexico, that no administration has considered itself justified in advancing them to statehood. It has been felt up to the present time that their own interests are better served by continuing them in a condition in which their government is directly under the control of the United States.

Utah was kept in a Territorial condition long after all the requirements necessary for statehood were fulfilled, because of the prevalence of plural marriages, and was only admitted

on condition that a clause should be inserted in the constitution by which polygamous or plural marriages were forever prohibited. It was held that polygamy, which was regarded by the people of the United States as an evil, could best be controlled by the United States as a whole rather than by the State, which could make what laws it chose when once admitted. For the sake of Utah itself, the government refused statehood to the Territory until polygamy was made unlawful.

Again the Union controls the admission of States for its own defence. While any part of the land is in a Territorial condition it has no part in the national government. It can only have a delegate, who has no vote, in the House of Representatives. But as soon as admitted, the new State is entitled to two senators and its proportional share of representatives in the House, and immediately becomes a factor in national affairs. For the protection of the country, Congress decides when the people of a Territory are entitled to such a share in national affairs. It does not always follow that the decision of Congress is just. When the two political parties are nearly balanced, the admission of one or two States, with their new senators and new electoral votes, might transfer the political control from one party to the other. In such a case, the party in power naturally, though unjustly, may find plausible reasons why the Territory applying for admission should remain in a Territorial condition. No matter how just the demand may be, the Territory must remain in that condition until Congress is ready to act favorably on its application.

In the course of the century, which began when Ohio was admitted into the Union and ended with the incoming of Utah, there were many important changes in the nature of the requirements for statehood. In the later Enabling Acts we find, for example, more carefully drawn provisions upon the matters of education and the judiciary. During this century, both the Enabling Acts and State constitutions increased in length and definiteness, but in their main outlines

they remained essentially the same. For example, the constitution of Kentucky, framed in 1792, contains twelve articles, and covers nine pages of Poore's *Charters and Constitutions*, while the constitution of the State of Utah, formed a hundred years after that of Kentucky, has twenty-four articles, and is about three times as long.

Of the constitutions formed in the first half of the nineteenth century we note, when we compare these instruments with the frames of government of the States on the Atlantic seaboard, an increasing tendency toward democracy. The people are given more power, at the expense of the legislature. This is particularly to be noted in the abolishment of property qualifications for voting. There is, too, an apparent desire to give to State constitutions more or less of the character of a law code, and this as a check to the power of the legislature.

CHAPTER XXII

IMMIGRATION INTO THE NORTHWEST

AMERICA as well as Europe has had, and still has, its migration of the nations. In the New World the conquest and displacement of the old inhabitants has been no less thorough than in the Old. The aborigines have been slowly but steadily dispossessed and the emigrants from the Old World have taken their places. In the New World as in the Old there have been the successive waves of migration driven onto the shores of America and onward into the west by the same force which sent the Goths south into the Plains of Italy, and the Huns westward over Europe. The emigrant has come because he and his children were hungry, and Europe offered him no bread, while across the ocean was an abundance.

The first migration into the Northwest can hardly be called a displacement because the Frenchman came only to hunt and trade with the Indian. The French rulers of the New World rejoiced in an empire of magnificent distances where the little hamlets scattered here and there through the wilderness on the water courses were an evidence of the French ownership, but there was nothing to suggest that these few scattered whites would ever do more than live on terms of equality and friendship with the Indians. This was not a hostile migration. It was only the coming of the hunter with a whiter skin, and in the vast unsettled wilderness there was room for both the native and the alien hunter.

But with the coming of the English the problem was changed, and the Indians could only look upon their arrival as that of a hostile force, which would one day dispossess them of their hunting grounds, either by purchase, treaty, or conquest. The new arrivals instead of settling down to live on terms of equality with the Indian cut down the forests and turned the hunting grounds into corn fields. This migration, from the East and South, was made up largely of those of English birth, but even at this early day, it was a mixed multitude, for there were some among the newcomers, like the unfortunate French who settled in Gallipolis, who had left their homes in Europe to try their fortunes in the new world. But in the early period the people who came from Europe made up a very small fraction of the total number of those who entered the West.

The East has continued to send its young men and women to develop and people the West, from the day when the prairie schooner and the flatboat were the most convenient ways of travel to the present day of rapid transit by steamer and railroad. That this is still an important element in the make-up of the population of the Northwest is clearly revealed by the census of 1900, which sets forth that to-day a large percentage of the inhabitants of some of the western States is composed of those who were born in other States. The census proves also the restlessness of Americans and the desire which takes possession of so many of them to try to better their circumstances by removal to parts of the country where conditions are supposed to be more favorable to advancement than those at hand.

In 1900, Ohio had four hundred and ninety-seven thousand six hundred and eighty-nine inhabitants born in other States and Territories of the Union, of which number Pennsylvania furnished one hundred and thirty-one thousand one hundred and forty-two, and New York fifty-six thousand six hundred and fifty-two, with Kentucky and Indiana following closely after this. Ohio, of the western

States the most easterly, had the smallest percentage of citizens who, though native-born Americans, had come to it from some other part of the nation; this element of its population being but thirteen and five-tenths per cent of the total number of inhabitants. Indiana had a total of four hundred and ninety-two thousand four hundred and seventy-three of such citizens, of which Ohio furnished one hundred and seventy-eight thousand three hundred and forty-four, and the other neighboring States the larger part of the remainder. Illinois had nine hundred and forty-three thousand nine hundred and forty-four native-born Americans not natives of that State; of this number Ohio and Indiana each furnished over a hundred thousand. Michigan had four hundred and seven thousand five hundred and sixty-two, of which number New York furnished one hundred and fifty-six thousand four hundred and eighty-nine, Ohio eighty-eight thousand two hundred and ninety, and no other State or Territory more than thirty-one thousand.

By the same census, 1900, Wisconsin's native-born population not born in the State is given as two hundred and forty-two thousand seven hundred and ninety-seven, of which number fifty-eight thousand three hundred and thirty-eight were born in New York, and the majority of the remainder in the States bordering Wisconsin. In Minnesota the total was three hundred and forty-five thousand and six, of which number eighty-one thousand two hundred and ninety-two came from Wisconsin, and about the same number from New York and Iowa taken together. Iowa had a total of six hundred thousand three hundred and sixty-five; of this number Illinois gave one hundred and forty-two thousand two hundred and thirty-four, and Ohio, eighty-eight thousand one hundred and forty-six. North Dakota had ninety-five thousand seven hundred and ninety, one-third of which came from the neighboring States of Minnesota and Wisconsin. South Dakota had one hundred and fifty thousand nine hundred and forty-nine, of which Iowa, Wisconsin, Minnesota, and Illinois furnished

more than half. Nebraska had four hundred and twenty-four thousand six hundred and twenty-six, of which three States, Illinois, Iowa, and Ohio furnished one-half. Montana had one hundred and eleven thousand six hundred and twenty, the greatest number coming from Missouri.

This migration is one which in most cases had an economic basis which can be easily explained. Taking, for example, the census figures relating to North Dakota, one-third of the native-born immigrants came from the two older States, Minnesota and Wisconsin. In South Dakota, more than one-half came from the four neighboring older States. Many of these immigrants in the Dakotas were farmers who did not take up new lands, but purchased those already under cultivation. They sold their old farms in Iowa, Illinois, Michigan, and Wisconsin at a price varying from $75 to $100 an acre, and with their money, farming implements, and sometimes their live stock, moved out into Dakota, where many bought land already under cultivation costing from $15 to $20 an acre. Trainloads of settlers came in this way. It did not mean a return to pioneer conditions, because, with the great amount of railroad building in the Northwest, the farmer is in close communication with markets. These native-born Americans of Iowa and the other older States of the Northwest had bought their lands when they were very cheap, sometimes taking up government lands. These farms increased in value to many times their original cost. The farmer then sold his property and bought more remote but equally fertile lands, with the reasonable expectation that the increase in value would be repeated.

In this group of States several facts are worth noticing about the movement of the native-born American population. One is what we should naturally expect, that the largest immigration came from neighboring States, and especially into States where the same occupation might be followed. Another is that the old Northwest no longer offers great inducements to native-born Americans. Every New

England State except Maine had a larger proportion of natives of other States within its borders than did Ohio. Indiana, while having twenty and eight-tenths per cent to Ohio's thirteen and five-tenths, falls below New Hampshire, Rhode Island, and Connecticut in this respect. Illinois offers a better field for the native-born American, and has twenty-four and five-tenths per cent of her native population made up of them; while the inducements for such immigrants to go to Michigan and Wisconsin are less, Wisconsin standing only a little higher than Ohio.

It is interesting to note that there is at present a decided eastward movement of population. One thousand one hundred and sixteen native-born Californians were living in Ohio in 1900; three thousand three hundred and twenty-one in Illinois; one thousand two hundred and ninety-eight in Iowa; two thousand and thirty-five in Montana, and smaller numbers in the other States.

The movement is still more marked for the nearer western States. The new State of South Dakota furnished of its native-born to its more eastern neighbors as follows: to Illinois, two thousand two hundred and twenty-three; to Michigan, one thousand and forty-four; to Wisconsin, two thousand eight hundred and ten; to Minnesota, seven thousand two hundred and sixty-four, and to Iowa, seven thousand one hundred and ninety.

Another interesting fact is the tenacity of the tendency to move along the same parallels of latitude, whether the movement be to the east or west. There is very little immigration into the States on the northern border of the United States from the States on the southern border. For instance, Michigan, with a total native American population born outside the State of four hundred and seven thousand five hundred and sixty-two, has less than four thousand from the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas. North Dakota, out of its ninety-five thousand seven hundred and ninety, has less than fifteen hundred

from the same States. As a general rule, the people of the southern States have not migrated north in large numbers. The State which is exceptional in this respect is Montana with its large contingent of natives of Missouri. The reasons for this have been explained.

As we proceed beyond the Old Northwest and come to newer territory there is a change in the proportion of those Americans who have come from some other States. Minnesota has twenty-seven and seven-tenths per cent; North Dakota, forty-six and five-tenths per cent; South Dakota, forty-eight and two-tenths per cent; Iowa, thirty-one and one-tenth per cent; Nebraska, forty-seven and eight-tenths per cent; Montana, sixty-three and three-tenths per cent. In other words, in the Dakotas and Nebraska nearly half of their inhabitants who were born in this country were born outside the limits of the States, and in Montana, this number has risen to more than one-half.

The growth of the West was rapid when there were only the people of the East to take up the new lands, but it increased greatly as soon as the immigration from Europe began. This influx was so important that some of our great north-central States would lose more than half their population if the foreigners and the children of foreigners should be taken out. The Northwest has been the objective point of the greater number of the better class of emigrants from Europe. The reason for this is not difficult to understand. Coming from the peasant class in Europe, they desired to go where they could get good land for little money, and the Northwest exactly fulfilled these conditions. Lands in the East, which were worth cultivating, were already taken up and held at a high price. The abundance of cheap, unoccupied land enabled a family to settle near people who had been their neighbors in the mother country, and thus the inevitable pangs of homesickness were somewhat dulled. This is an important feature in the development of the West. One family which had taken up new land became successful and kindred or neighbor families

were induced to come to try their fortune. Often a considerable part of a village in one of the northern European countries came in a body, all the people settling together in Minnesota or Dakota.

The reason for the migration into the West both of the native-born Americans and of the foreigners has, as we have pointed out, been economic. We miss the religious motive so prominent in the beginnings of New England. The Scandinavians and Germans have gone into Minnesota and Dakota for the same reason as that which separated Abraham and Lot on the plains of Sodom, "the land became too narrow for them." Sometimes the fact that there is not room for all in the home country has been made evident by a famine or a crop failure. The great Irish immigration to America began with the famine in the middle of the nineteenth century.

Political agitation and disappointment in central Europe gave an impulse to emigration which has never ceased, and, coming at a time when the Northwest was being opened up to settlement, a German influence was impressed upon some of these States.

Railroad companies have not been slow to see the advantages which would come to them with the rapid settlement of the lands through which their roads passed. The railroads in the Northwest had large holdings of land, given them as an inducement to build, and they were anxious to dispose of these. More than that they wished to gain the money which would come from transporting emigrants. They desired to have their roads pass through sections of prosperous farms that they might haul the products to market. They offered inducements in the way of cheap transportation and cheap lands to invite a desirable emigration. They have their agents in Europe who are ready to give advice and encouragement to possible emigrants.

Land companies have used the same methods, and the States, realizing that their prosperity would depend upon the coming of desirable emigrants, have established bureaus

of immigration and appointed commissioners of immigration to assist in this work. Wisconsin may be taken as an illustration of this. In 1878, a State Board of Immigration was established, whose duty it was "to enhance and encourage immigration to this State from other States and from the Dominion of Canada and from Europe. This board shall have authority to provide for the collection of statistics and useful information concerning the climate, products, population, and agricultural, mineral, and other resources and advantages of this State, and for the printing and dissemination of the same in such languages as it may deem necessary."

In the pamphlets issued by this board were set forth the advantages of the social and educational privileges, and the religious and political freedom to be obtained in the New World and particularly in the States of the Northwest. Just the points were emphasized which would appeal to the best class of immigrants: citizenship at the end of a year's residence; right and justice for all; freedom and equality before the law; the right to hold any office in the State except those of governor and lieutenant-governor after a year's residence in the State; and the promise that "men coming here and entering into the active duties of life identify themselves with the State and her interests and are to all intents and purposes Americans."

The commissioners sent these publications to England, Norway, Sweden, Denmark, and Germany, or caused them to be given to the emigrants on their arrival in New York. Advertisements were inserted in European newspapers. By these means, as well as by personal conversation, the tide of emigration from northern Continental Europe was turned toward the Northwest, especially toward Wisconsin.

The nationality which is the most important, numerically, in the Northwest is the German, and Germans have had more influence on its development than have any other immigrants. In the early part of the nineteenth century there was a considerable German migration from Pennsylvania

across the Ohio. These people settled in that part of Ohio nearest the Pennsylvania line.

There were Germans who came directly from the fatherland to Ohio in 1833, but the great emigration did not begin until near the middle of the century. The economic causes which led to the coming of the other emigrants operated with special power in Germany, and added to these was the effect of the failure of the popular movements of 1830 and 1848. After the latter date emigration to America became very popular, and two-thirds of the Germans who left the fatherland between 1850 and 1860 went to the West. The majority of the emigrants of other nationalities coming in the same decade remained in the East. This is especially true of the Irish.

There was a careful study of the best places for settlement in the United States, and Texas, Iowa, and Wisconsin were considered desirable by the Germans; of the three, Wisconsin became the favorite State. There were good reasons for this decision, such as a suitable climate, generous land laws, and ease of access. There was a strong desire on the part of German patriots to make Wisconsin a German State.

While Germany had no lands suitable for colonization it was the desire of many to preserve the customs of the fatherland in some place where the people would have a larger degree of liberty than was possible in the home country. Immigration societies were formed, and, in the periods of political disappointment, many Germans turned toward America. Their idea was to form a State in which the language should be German, in which there should be German art, literature, law, and so forth. The Northwest was selected as the best place for this experiment on account of its growing strength and the position which it was sure to have in the development of America. It was suggested that a beginning be made with fifty thousand acres of land; that when two hundred settlers had arrived a democratic State be formed; but none of these plans came to anything.

The emigrants came, but they settled where business interests dictated, and not in isolated settlements which should be ruled by idealists. The effort to found a State which should be distinctly German was discouraged by the wisest among the leaders of the newcomers, who brought the rank and file to see that their best interests would be served if they would give up this Utopian idea and contribute to the development of American nationality. This counsel was followed, but the wide agitation of the subject led to a better knowledge of America and the decision that the Northwest was the best location for German emigrants.

The State Immigration Commissioner estimated that between sixteen and eighteen thousand Germans came to Wisconsin during the eight months covered by his report in 1853. In May, June, and July, 1854, the number was not less than sixteen thousand, and they have entered in large numbers since that time. The same general reasons which led the Germans to come to Wisconsin brought them to the other States of the Northwest, and these also have a very large and valuable German element in their population.

The Scandinavians form a very desirable part of the foreign population of the Northwest. They are intelligent, vigorous in mind and body, industrious, and loyal to American institutions. They do not herd together in the cities or follow any one occupation. They are farmers, merchants, manufacturers, and professional men, as well as artisans and day laborers.

The Scandinavians resemble the native Americans more closely than do any other of the races foreign to the United States. These resemblances may be traced in manners and customs, political and religious instincts, and in personal appearance. They find it an easy matter to learn the English language, because it is so closely allied to their own. It is often difficult to distinguish the first generation of American-born Scandinavians from Americans.

There was little immigration from Scandinavia until 1836, when two shiploads of emigrants arrived in New York.

There were about three hundred and fifty of them, and nearly all went into the West, where there were already small settlements in Lasalle County, Illinois. More immigrants joined this colony in 1837 and 1838, so that it became a settlement of considerable prosperity.

The first Norwegian settlement in Wisconsin was made in 1830, near Beloit, in Rock County. A second settlement followed, in Racine County, in 1839 and 1840. This consisted of thirty or forty people. The third in Wisconsin, the Koshkonong settlement in Dane County, was made in 1840. It soon became large and prosperous, and is to-day the wealthiest Norwegian settlement in America. Norwegians settled in Chicago in 1836.

Since the middle of the nineteenth century, emigrants from Norway and Sweden have come in large numbers and have selected the northern States of the Northwest for their homes, so that in some of the northern counties they outnumber all other immigrants. They are, as a rule, farm dwellers, and this to a greater extent than any other element of the European migration. This habit is the strongest among the Norwegians, of whom in 1900 only twenty-two and four-tenths per cent resided in the cities of the United States.

An important element in the settlement of the early Northwest was the Scotch. They were never numerous, when their total strength is compared with that of the Germans or Scandinavians, but they were influential out of proportion to their numbers. Taking with them their Scotch inheritance of thrift, frugality, and business ability, they settled in considerable numbers in Columbia, Buffalo, Green Lake, Kenosha, Marathon, Trempeleau, Racine, Walworth, and Rock Counties, in Wisconsin, and are found in nearly every other county in the State, not in colonies, but scattered among men of other nationalities. While many of them were farmers, others engaged in commercial enterprises. The greatest financier of the early West, Alexander Mitchell, the founder of "Mitchell's Bank," was a

Scotchman. He gave the Northwest a credit currency which was always redeemable on demand. The notes on Mitchell's bank were accepted anywhere without question, while the notes of other banks were frequently refused. Scotland has furnished more than her proportion of bankers, great merchants, financiers, and railroad builders to the Northwest.

An unexpected element is found in North Dakota, in the neighborhood of Pembina, where a colony of Icelanders has taken up its abode. The natural place for such people would be much further north, in a climate more like that from which they came. Their first effort toward settlement was made in such a climate, in the vicinity of Lake Winnipeg; but poor crops and disasters of one kind and another forced them to emigrate, and, about 1878, they came into the northeastern corner of North Dakota, where their presence is now indicated on the map by such names as Walhalla, Maida, and Hensel. This community has become thoroughly Americanized in every way, and has furnished some of the leading men of the northeastern section of North Dakota. They speak English fluently, but still keep up the use of the Icelandic language in their homes. They, like their relatives from Norway and Sweden, are prosperous and contented in their new homes.

In 1853, ten Belgian families wished to better their condition, and so came to America. After much discussion, eight of them decided upon Wisconsin as the State which best fulfilled their wishes. They proceeded to Green Bay and settled near the French Canadians, because they spoke French. These first settlers wrote home to their relatives and friends and told them pleasant things about the new homes in the New World. At this time Belgium had thousands of families in the same condition as those who had emigrated, willing, industrious, but unable to make a good living on the very limited amount of land at the disposal of each family. This was the beginning of a great emigration to America. Probably fifteen thousand came

to America in 1854 and 1855, and located in Brown, Kewaunee, and Door Counties, Wisconsin.

The Bohemians were some of the early arrivals in this country, some few families coming as a result of the Thirty Years' War; but the immigration was not of any considerable importance till the general migration from Europe to America, about the middle of the nineteenth century, when political oppression, low wages, overcrowded labor markets, and no hope of improvement, induced many of the people of Bohemia to turn their attention to the New World. It is probable that by the end of the nineteenth century there were half a million of Bohemians in the United States. A large proportion of these were in the West, Wisconsin having about fifty thousand. They engage in all kinds of occupation, many of them becoming farmers, and others settling in the cities, as the large Bohemian element in Chicago testifies. They have entered freely into professional life. Bohemian colonies are located in Wisconsin, in the counties of Manitowoc, Kewaunee, Oconto, La Crosse, Adams, and Marathon. The Bohemians are patriotic and intelligent, and when not out of contact with American life quickly become Americanized.

The largest Bohemian colony is in Chicago. These immigrants began to come to Chicago in 1851 and 1852, possibly even earlier than that. The main cause of their coming at that time was the failure of the Revolution of 1848. Many of these early immigrants were men of culture and education, but were obliged to engage in menial work in order to make a living. The immigration greatly increased after 1860. In the early period they were exclusively engaged in the building trades and manual labor, but since 1878, they have entered professional and mercantile life; the majority, however, remain artisans with a small proportion in the ranks of the common laborers.

The first Bohemians in Chicago settled in the district extending from Canal to Halstead, and from Ewing to Twelfth Street. After the fire, the Bohemian community,

which gradually became a good sized city in itself, spread from Halstead to Ashland Avenue and from Sixteenth Street to Twentieth Street, and even beyond these bounds. This section was called Pilsen, in honor of the city of that name in Bohemia, and formed in the heart of Chicago the third largest Bohemian city in the world.

More than half of these people are Roman Catholic, while the greater number of the remainder do not attend any church. One parish, that of St. Prokopius, has property, including school buildings, convent, church, and farms, worth more than $1,000,000. Bohemian patriotism was evidenced in 1860, when the first regiment to go from Chicago to fight for the Union was composed of Bohemian-Slavonians. In politics they were largely Republican till 1883, when the Democrats nominated a Bohemian for alderman, which had the effect of winning many of them to the Democratic party. They are more clannish than most of the foreigners settled in Chicago, partly because of the difficulty of learning the language, so totally unlike their own, which places them at a great disadvantage when compared with the Germans, and partly because of a prejudice against them on the part of Americans and of their traditional enemies, the Germans. They have taken some part in politics, but their inherited customs and modes of life cling closely to them.

Mention may be made of one Chicago colony whose members differ essentially from other immigrants in the Northwest. The Italians form a city of their own, but come only with the idea of getting money as fast as they can and returning to Italy to enjoy what they have hoarded. For this reason they enter but little into American life, and do not try to learn the language. Many, because of their inability to speak English, are compelled to become common laborers, whatever their work may have been in Italy. In Chicago they are mostly from the peasant class. They form an individual colony and make an independent community, with their own professional and business men, who

attend to all the transactions of the immigrants with the outside world. There are Italian doctors, priests, merchants and so forth. These immigrants economize in every possible way and save a large part of the dollar or dollar and a half a day earned at unskilled labor, so that they may quickly return to Italy and live a life of comparative ease on their own farms or in their stores. Some, after a time, decide to remain in this country and make up the permanent element in the Italian community. They are only slowly becoming Americanized, and the process will continue to be gradual till they follow the example of the northern Europeans and live in the country instead of the crowded city colony.

In the first half of the nineteenth century the productivity of the mines in Cornwall had decreased so that wages were low. Glowing accounts of the wealth of the lead mines in Wisconsin were sent to the miners in Cornwall, and as a result a great number emigrated to this country. Nearly all began mining for themselves on their own land. These Cornishmen, when they came to this country, were unlettered, shrewd, industrious, and skilful. They could take mines which had been abandoned and make them pay. They were not given to prospecting, but when they obtained possession of a mine they worked it as long as it was worth working. These miners began to arrive in small numbers in Wisconsin as early as 1830. There were probably seventy-five or one hundred in the southwestern part of the State by 1835, but from that date the influx was greater. Probably their number by 1850 was forty-five hundred in the lead mining section of the State. At the present time it is estimated that the entire Cornish population in the lead region is about ten thousand. Interesting survivals of this immigration are now found in the strange words still retained where the Cornish population is numerous. A number of Cornish words are still used and there is a marked Cornish accent. It is difficult for a stranger to understand a conversation between two Cornishmen.

The Russians are recent arrivals in the Northwest; driven from their old homes by oppression and persecution, they find in the vast level plains of North Dakota a reminder of their native land, and conditions under which they may continue their old occupation under happier auspices. Mercer County, North Dakota, may be taken as an illustration of this fact, for its population is very largely Russian. They are slow to accept American ideas and to learn the English language. But they make a living from lands which American farmers would not care to cultivate on account of their barrenness. They are frugal and thrifty. The birth rate is very high in these Russian families, and the children are learning American ideas in the schools which dot the northern plains. The Russian children quickly learn things American, and will not be long satisfied with the sod huts and adobe houses of their parents. There is a wide difference between the Russian peasant and the free American farmer, but this becomes markedly less with the first generation of Russians taught in American schools. These Russian settlements in North Dakota are the more worthy of notice in view of the fact that emigrants from Russia more than of those from any other country settle in the urban centres. In 1900, seventy-four and nine-tenths per cent of the entire number of Russian emigrants were in the large cities.

Polish immigration to the Northwest has been quite marked in recent years. With no country the Poles can call their own, because of the division of Poland between Russia, Austria, and Germany, the social, political, and economic advantages of America have appealed very strongly to them. More than two million are now in the United States, of whom over one million came from Europe, the other million having been born here. Within the limits of Chicago there are more than one hundred and fifty thousand Polanders, enough to populate a good-sized city. The first settlers came to Wisconsin in 1850. There are large numbers of them in Milwaukee, but they are naturally people of the country, and so are mainly engaged in farming,

and like the other European emigrants prefer to settle in colonies. There are colonies at Marinette, Stevens Point, Berlin, Menasha, Manitowoc, Beaver Dam, La Crosse, and Independence. The tendency to settle in colonies is increasing with the growing Polish immigration. Half the population of Portage County is made up of Polanders.

The ease of acquiring land in the Northwest is evidenced by the fact that the Polanders are not all ordinary laborers as is usually the case in the eastern section, but many of them are property owners. They are generally industrious, sober, and intelligent. They cling closely to their adopted country and become good American citizens without giving up the cherished customs of Poland. They proved their patriotism in the war with Spain, by sending the Kosciuszko Guards, of Milwaukee, to the front. They have given attention to education and religion, and had a church of their own in Milwaukee even in 1865, when the entire Polish population of the city was included in thirty families. In 1902, they had seven churches in Milwaukee, of which St. Josephat's, costing $250,000 is the largest Polish Catholic church in the United States. Anxious to give their children an education in religion as well as in secular matters, they are very zealous in maintaining parochial schools, but many of the children attend the public schools, especially in the higher grades. The Polanders nearly all speak German, as well as their own language, and the children quickly learn English.

The distribution of the Canadians in the West shows how easy it is for foreigners to cross the frontier and become assimilated. The hope of improvement in economic conditions in a location near the old home has proved a great inducement to many of the inhabitants of Canada. In the old fur trading days the hunter and trapper knew no frontier, and was as much at home in northern Wisconsin and Minnesota as in his native land. With the passing of the fur trade, the Canadian chose an occupation which still kept him in the wilderness and became an employé of the

lumber companies in the vast forests of the northern frontier, or he took up a more settled life and became a farmer in some rich river valley. In this way the large Canadian population in northern Michigan and Wisconsin, and in central Minnesota, North Dakota, and Iowa, is readily accounted for. They are more strongly represented than any other foreigners in Montana, except in the mining regions.

The foreign-born population in the northwestern States, according to the census of 1900, was as follows: The total in Ohio was four hundred and fifty-eight thousand seven hundred and thirty-four, of which number two hundred and four thousand one hundred and sixty were born in Germany, fifty-five thousand and eighteen in Ireland, forty-four thousand seven hundred and forty-five in England, twenty-two thousand seven hundred and sixty-seven in Canada, twelve thousand and seven in Switzerland, eleven thousand four hundred and eighty-one in Wales, fifteen thousand one hundred and thirty-one in Bohemia, eleven thousand five hundred and seventy-five in Austria, and sixteen thousand four hundred and sixty-three in Hungary. The remainder of the foreign-born came from other European countries, no one country furnishing ten thousand. The presence of two large cities accounts partially for this large number. Cincinnati and Cleveland together had one hundred and eighty-two thousand five hundred and ninety-two of these. Of these, Cincinnati had thirty-eight thousand two hundred and nineteen, or sixty-five and nine-tenths per cent of its foreign-born population, German, while Cleveland had forty thousand six hundred and forty-eight natives of Germany, thirteen thousand five hundred and ninety-nine of Bohemia, and thirteen thousand one hundred and twenty of Ireland.

Indiana's foreign-born population was comparatively small in 1900, consisting of a total of one hundred and forty-two thousand one hundred and twenty-one. Of these, seventy-three thousand five hundred and forty-six were born in Germany, sixteen thousand three hundred and six in Ireland,

ten thousand eight hundred and seventy-four in England, four thousand nine hundred and eighty-six were of English birth in Canada, six thousand and sixty-seven were Polanders, four thousand six hundred and seventy-three were Swedes. No other country furnished four thousand.

Illinois had a much larger number of foreign-born than any other northwestern State, there being in that State nine hundred and sixty-six thousand seven hundred and forty-seven. The total number of foreign-born, natives of Germany, in Illinois in 1900, was three hundred and thirty-two thousand one hundred and sixty-nine; of Ireland, one hundred and fourteen thousand five hundred and sixty-three; of England, sixty-four thousand three hundred and ninety; of Canada, of English birth, forty-one thousand four hundred and sixty-six; of Bohemia, thirty-eight thousand five hundred and seventy; of Holland, twenty-one thousand nine hundred and sixteen; of Austria, eighteen thousand two hundred and twelve; of Denmark, fifteen thousand six hundred and eighty-six; of Italy, twenty-three thousand five hundred and twenty-three; of Norway, twenty-nine thousand nine hundred and seventy-nine; of Poland (including German, Russian, and Austrian Poland), eighty thousand eight hundred and forty-five; of Russia, twenty-eight thousand seven hundred and seven; of Scotland, twenty thousand and twenty-one; of Sweden, ninety-nine thousand one hundred and forty-seven, and the remainder from other countries, no one furnishing ten thousand.

The large number in Illinois is due to the city of Chicago which, more than any other American city with the exception of New York, contains foreign colonies that would make cities by themselves. Of this total foreign-born population, in 1900, Chicago contained five hundred and eighty-seven thousand one hundred and twelve, or more than one-half. Of these, one hundred and seventy thousand seven hundred and thirty-eight were born in Germany, seventy-three thousand nine hundred and twelve in Ireland, forty-eight thousand eight hundred and thirty-six in Sweden,

thirty-six thousand three hundred and sixty-two in Bohemia, fifty-nine thousand seven hundred and thirteen in Poland, twenty-four thousand one hundred and seventy-eight in Russia, twenty-nine thousand three hundred and eight in England, thirty-four thousand seven hundred and seventy-nine in Canada, and twenty-two thousand and eleven in Norway.

There is a change in the proportion of the elements of the foreign-born population of Michigan, due to the nearness of Michigan to Canada. The total foreign-born in Michigan was five hundred and forty-one thousand six hundred and fifty-three, of whom one hundred and fifty-one thousand nine hundred and fifteen are English from Canada, and thirty-two thousand four hundred and eighty-three French from Canada. Germany came next with one hundred and twenty-five thousand and seventy-four. There is a long gap before we come to England, which furnished forty-three thousand eight hundred and thirty-nine. Holland followed with thirty thousand four hundred and six, and Ireland, which in the three lower States of the old Northwest followed Germany, is to be placed after Holland, for it furnished only twenty-nine thousand one hundred and eighty-two. Poland furnished twenty-eight thousand two hundred and eighty-six, Sweden twenty-six thousand nine hundred and fifty-six, and Scotland ten thousand three hundred and forty-three. Other countries supplied the remainder in smaller numbers.

In the one large city, Detroit, which had ninety-six thousand five hundred and three foreign-born, the relative strength of the components is slightly changed, the Germans leading with thirty-two thousand and twenty-seven, followed by the Canadians with twenty-five thousand four hundred and three, and the German Polanders with ten thousand seven hundred and three.

Wisconsin's total was nearly the same as Michigan's, five hundred and fifteen thousand nine hundred and seventy-one, but quite different from the latter State in its composition.

For reasons which we have already considered, Wisconsin received in its early history a large German immigration, so that in 1900 nearly one-half its entire foreign-born population was from Germany, the census figures being two hundred and forty-two thousand seven hundred and seventy-seven. Norway was the native place of sixty-one thousand five hundred and seventy-five, Sweden of twenty-six thousand one hundred and ninety-six, and Poland of thirty-one thousand seven hundred and eighty-nine. The ease of immigration from Canada is shown by the fact that that country furnished twenty-three thousand eight hundred and sixty of English birth, and ten thousand and ninety-one of French. Ireland furnished twenty-three thousand five hundred and forty-four; England, seventeen thousand nine hundred and ninety-five; Denmark, sixteen thousand one hundred and seventy-one; Bohemia, fourteen thousand one hundred and forty-five; and smaller numbers came from other countries of Europe.

Milwaukee had a foreign-born population of eighty-eight thousand nine hundred and ninety-one; of this the Germans comprise sixty and five-tenths per cent, or fifty-three thousand eight hundred and fifty-four, and German Polanders seventeen per cent, or fifteen thousand one hundred and fifteen. No other nationality furnished as many as three thousand.

Minnesota's foreign-born population is well-nigh as large as that of Wisconsin, but with a noticeably smaller number from Germany and a larger number from Norway and Sweden. The total was five hundred and five thousand three hundred and eighteen; of these, one hundred and seventeen thousand and seven were from Germany. Sweden furnished one hundred and fifteen thousand four hundred and seventy-six, and Norway one hundred and four thousand eight hundred and ninety-five. The next largest number was from Canada, there being thirty-five thousand five hundred and fifteen of English birth, and twelve thousand and sixty-three of French. The other figures did not

reatly from those of Wisconsin. Minneapolis had a total foreign-born population of sixty-one thousand and twenty-one, of which Germany furnished twelve per cent, Norway eighteen and nine-tenths per cent, and Sweden thirty-two and eight-tenths per cent. St. Paul's foreign-born population of forty-six thousand eight hundred and nineteen, included twenty-seven and six-tenths per cent Germans, ten and four-tenths per cent Irish, and twenty-one per cent Swedes.

Going farther to the south we find in Iowa a total foreign-born population of three hundred and five thousand nine hundred and twenty. Of these, Germany furnished one hundred and twenty-three thousand one hundred and sixty-two; in Iowa again we find the Scandinavian element prominent, coming next to the German. Of the foreign-born, Sweden furnished twenty-nine thousand eight hundred and seventy-five, Norway twenty-five thousand six hundred and thirty-four, and Ireland twenty-six thousand three hundred and twenty-one. There is a decided decrease in the proportion of those of Canadian birth, especially of the French Canadians, due to the distance of Iowa from Canada, and the fact that Iowa does not have the forest industries which are so attractive to the French Canadians. Iowa had only fourteen thousand one hundred and sixty-eight Canadians of English ancestry, and one thousand five hundred and nineteen French, born in Canada. England furnished twenty-one thousand and twenty-seven, Denmark seventeen thousand one hundred and two, and other European countries smaller numbers.

Nebraska's total number of foreign-born was one hundred and seventy-seven thousand three hundred and forty-seven, of which Germany furnished sixty-five thousand five hundred and six; Sweden, twenty-four thousand six hundred and ninety-three; Bohemia, sixteen thousand one hundred and thirty-eight; Ireland, eleven thousand one hundred and twenty-seven; Denmark, twelve thousand five hundred and thirty-one; England, nine thousand seven hundred and fifty-seven; and Russia, eight thousand and eighty-three.

North Dakota differed from the other States of the Northwest in that its German immigrants were not the most important numerically. The place of Germany as the leading source of the foreign-born is taken by Norway, which furnished thirty thousand two hundred and six. The ease of passing from Canada over the international boundary line, and the similarity of occupation is seen from the large number, one hundred and thirteen thousand and ninety-one, of natives of Canada who had settled in North Dakota. Germany gave eleven thousand five hundred and forty-six. Russia furnished fourteen thousand nine hundred and seventy-nine, thus making this State stand next to Illinois among the western States in the number of Russians it contains. Sweden gave eight thousand four hundred and nineteen, and no other nation as many as four thousand.

Of South Dakota's eighty-eight thousand five hundred and eight foreign-born inhabitants, nineteen thousand seven hundred and eighty-eight were from Norway; Germany furnished seventeen thousand eight hundred and seventy-three; Russia, twelve thousand three hundred and sixty-five; Sweden, eight thousand six hundred and forty-seven; Canada, seven thousand and forty-four; Ireland, three thousand two hundred and ninety-eight; and the other countries, smaller numbers.

In Montana's small foreign-born population of sixty-seven thousand and sixty-seven the Canadians are the most numerous element. They are followed in order by the Irish, English, Germans, Swedes, and Austrians.

This statement of foreign birth does not represent the whole of the foreign influence in the Northwest. There are very many persons who were born in this country and yet have been so thoroughly surrounded by foreign influences in their homes that, to all intents and purposes, they are as thoroughly alien as if born across the waters. In attempting to arrive at the foreign influence, it is necessary to consider the foreign parentage. Foreign parentage includes all those of native or foreign birth who have one

o[illegible] parents foreign born. In Ohio, thirty-four and seven-tenths per cent of the entire population in 1900 were of foreign parentage; in Indiana, twenty and six-tenths per cent; in Illinois, fifty-two per cent, or two million four hundred and sixty-two thousand seven hundred and five out of a population of four million seven hundred and thirty-four thousand eight hundred and seventy-three. In Michigan, fifty-seven and one-tenth per cent were of foreign parentage; in Wisconsin, seventy-one and one-tenth per cent. Minnesota had of foreign parentage one million three hundred and ten thousand nine hundred and fifty-eight, or seventy-five and five-tenths per cent of its one million seven hundred and thirty-seven thousand and thirty-six inhabitants; Iowa, only forty-three and one-tenth per cent; Nebraska, forty-seven and six-tenths per cent. North Dakota had the highest proportion, with two hundred and forty-five thousand eight hundred and twenty-five, or seventy-eight and nine-tenths per cent of its total population of three hundred and eleven thousand seven hundred and twelve, of foreign parentage. South Dakota had sixty-four and two-tenths per cent, and Montana, fifty-eight and nine-tenths per cent.

These figures are made more striking when we consider the number of persons of foreign parentage in the leading cities of the Northwest. Chicago has seventy-seven and four-tenths per cent, or one million three hundred and fifteen thousand three hundred and seven, of its population of foreign parentage; Detroit, seventy-seven and five-tenths per cent; Minneapolis, sixty-nine per cent; St. Paul, seventy-two and six-tenths per cent; Butte, Montana, sixty-nine and seven-tenths per cent; Cincinnati, sixty and seven-tenths per cent; Cleveland, seventy-five and six-tenths per cent; Milwaukee, eighty-two and seven-tenths per cent, which means that two hundred and thirty-five thousand eight hundred and eighty-nine of its two hundred and eighty-five thousand three hundred and fifteen inhabitants are of foreign parentage. This makes Milwaukee the least

American of the large cities of the United States. Four of the smaller manufacturing cities of New England, Holyoke, Lawrence, Woonsocket, and Fall River, however, have a larger proportion of foreign-born, the percentage varying from eighty-three and one-tenth for Lawrence to eighty-six and one-tenth for Fall River.

It is evident that a foreigner does not become thoroughly Americanized until he can speak the English language; that so long as he knows only the language which he brought with him from a non-English-speaking land, he is limited to contact with the men of his own race. This tends to perpetuate the ideas and prejudices of the Old World. The census of 1900 reveals some interesting figures as to the lack of knowledge of English among the foreign born in the Northwest. Of Ohio's population of foreign parentage fifty-two thousand eight hundred and sixty-four could not speak English. The parentage of these was as follows: German, eighteen thousand three hundred and forty-five; Hungarian, six thousand six hundred and ninety; Polish, six thousand three hundred and fifty-nine; Bohemian, five thousand seven hundred and fifty-four; Italian, four thousand nine hundred and ninety-one; Austrian, four thousand nine hundred and fifteen; and all others, five thousand eight hundred and ten.

Indiana contained only twelve thousand and fifty who could not speak English.

Illinois led in this respect with one hundred and four thousand nine hundred and forty-two persons who could not speak English; of this number, Germany furnished the parents of thirty thousand and seventy; Poland, of twenty-five thousand two hundred and fifty-two; Bohemia, of twelve thousand nine hundred and twenty-six; and Italy, of eight thousand nine hundred and sixty-four.

In Michigan's total of fifty thousand nine hundred and thirty-nine persons not speaking English, Germany furnished twelve thousand nine hundred and sixty-nine, and Poland eleven thousand and eighty-six.

Wisconsin, with ninety-one thousand eight hundred and twenty-one inhabitants who did not speak English, had fifty thousand one hundred and nineteen of German parentage, eight thousand five hundred and one of Norwegian, thirteen thousand six hundred and ninety of Polish, and four thousand eight hundred and sixty-four of Bohemian.

Minnesota's seventy-one thousand six hundred and thirty-four comprised seventeen thousand seven hundred and two whose parents were Norwegian, sixteen thousand six hundred and thirty-one German, and fourteen thousand eight hundred and seven Swedish.

Of North Dakota's eighteen thousand eight hundred and seventy-three who had not learned English, Russia was the home of the parents of seven thousand one hundred and forty-two, Norway of four thousand three hundred and forty-nine, and Germany of only one thousand seven hundred and fifty-eight.

South Dakota's fourteen thousand and fifty-nine non-English-speaking people were divided up in much the same proportion as its northern sister.

Iowa had twenty-six thousand three hundred and ninety-five who could not speak English, nearly half of them being of German descent. Norway, Bohemia, and Sweden furnished the majority of the remainder.

The problem of assimilation is one which presents many difficulties, but there are certain very encouraging features about it. One is that the settlers who founded these northwestern States were men of strong character and sterling worth, and they made a lasting impression upon the institutions of the country. A second favorable circumstance is the constitution of the immigration. The Germans and Scandinavians made up the larger part of the foreign arrivals in some of the States, and of these the Germans came in very large numbers while the States were in the formative period. This is also true of the Swedes and Norwegians, who, though they came a little later, arrived in such large

numbers that they, with the Germans, formed the dominant foreign influence.

Scandinavians, Germans, and English have to go back only a few centuries to find a common ancestry. They are all Teutonic, and had not become greatly diversified by the few hundred years which had elapsed since their common ancestors were the free men of the German forests. The three people, Scandinavian, German, and English had become somewhat modified by climatic and political conditions, but the underlying racial characteristics had not been altered. Just as the Briton, when freed from the petty tyranny of an English king, became the free man of New England and Virginia, entirely capable of caring for his own political welfare, so the German, who was disappointed with the outcome of European politics in 1848, threw off the tyranny of his ruler and reasserted his right to freedom in the United States. The Scandinavians also have shown their capacity for self-government, and have worked in hearty sympathy with the older settlers of the Northwest.

The Northwest has also been fortunate in having a large influx of English settlers from Canada. They needed no preliminary training, but were at once ready to assume the duties of American citizenship. The value of these forces in making the Northwest what it is to-day cannot be estimated too highly. Statistics reveal that these very desirable immigrants are still coming, and, in addition, many from the other parts of Europe who have not had the ancestral inheritance and practice in self-government which made the men of the Teutonic race so desirable. The Slavic race has had no training but seems ready to be taught. The men of the Latin race bring to America ideas of the functions of the State quite different from what they find here. Ignorant of the first principles of our government, these men from southern and eastern Europe may become the tools of designing politicians, or they may be trained in American citizenship. If the great Slavic and Latin migration had occurred in the middle of the nineteenth century,

when Wisconsin and Minnesota were at the beginning of their formative period, the results might have been far different from what obtain to-day. The West has room for many more non-Teutonic immigrants and, on the whole, they are showing gains in the comprehension of American institutions, but the process must be a slow one.

These people have come from a part of Europe where there is less intelligence and understanding of governmental affairs than in the cities of northern Europe. Thousands have entered the cities and farming sections of the Northwest who have no thought and no desire to exercise the franchise. Back of them is an ancestry for countless generations of those who have been content to let others rule them and rule for them. They have always been subjects with political superiors to make the laws for them. They are unfitted by generations of servitude for American citizenship, as surely as the English and Germans are fitted for it by their generations of freedom. This problem still awaits its solution, which must necessarily be delayed.

The rapidity with which immigrants become Americanized depends first of all upon the age of the person in question. The great Americanizing force is the public school. When the foreigner is brought to this country so early that his whole educational career is spent in the public schools, he is quite sure to be a thorough-going American. This is true in a lesser degree when he has obtained part of his education in the Old World. But when the immigrant has reached middle life, he brings with him the education, habits, customs, and tastes of a lifetime, and he will probably remain a foreigner all his days. He is influenced, more or less, by his new surroundings, but is never able to break away from his old habits of thought and life. He probably would not care to if he could. How far he assimilates new ideas will depend upon his intelligence and the training which he received in the old country. The foreigner who goes into the West and is not able to read or write his own language becomes an American very

slowly, if at all. He is not ambitious to improve himself and is slow to grasp new ideas. As an unskilled laborer, he is generally associated with those of his own class who are alike ignorant and unambitious. Even the more intelligent immigrant, if he settle in a community where there are many people of his own nationality has little incentive to learn English; he may settle down and live as a Scandinavian or German and never become Americanized. But if there are but few of his own people near him, and he is brought in constant contact with American-born neighbors, the process of assimilation will be greatly accelerated.

It has been found by observation that the Americanizing of the immigrant goes on more rapidly in the small town than in the large city or the thinly settled country community. The German or Polander or Bohemian who settles in Milwaukee or Chicago quickly finds his own countrymen, and will probably live in the quarter in which his own people make up the larger proportion of the inhabitants. Even if he does not do this he is brought into contact with them in church and social life, and naturally prefers their society to that of the American-born. Much the same result follows in the isolated farm life. The foreigner has little opportunity for contact with his fellow Americans, and if his nearest neighbors came from his own country in Europe, he will make little progress in American ideas.

Conditions are most favorable in an old, thickly-settled farming community or in a village where there are many Americans. Social distinctions are not strictly drawn in such a place and if the immigrant shows himself a good neighbor he will be encouraged to make himself one of the community.

In the large cities the immigrant goes to churches in which the priest or minister conducts the services in the native language. In the village, if he attends church, it would of necessity be where the service is carried on in the English language. The parochial school can only be

established and the work carried on in a foreign language where there is a large number of foreigners. The public school in the village must be conducted in English.

One very important element in the process of assimilation has been the newspaper published in a foreign language. It is through this that the immigrant gets his political ideas and his knowledge of what is taking place in the land of his adoption. While some of these papers stand for the persistence of ideas and customs of a foreign race, many of them are ably edited, and are very influential in developing good citizens. They are published in foreign languages because at first their constituents can read no other.

Assimilation is retarded by social barriers which keep the American and the immigrant separated. There are often striking differences in the social customs which the natives of New England stock never fully understand, customs which have been handed down from time immemorial in Central Europe, which the immigrants bring with them and enjoy. In the same way the native-born Americans of native parents have customs and amusements which the foreigner fails to appreciate. Under ordinary circumstances each people keeps by itself. The foreigner is not invited to share in the social or family life in the native American home. The lack of appreciation and understanding of the real life has been and must continue to be a barrier to complete assimilation.

Yet, in spite of the drawbacks presented by alien races and customs, and notwithstanding the efforts and temporary successes of sectionalists and politicians, the policy has been consistently followed of incorporating the Territories as soon as their people can be trusted, in their own and the nation's interests, with the powers of self-government. The manner in which individual responsibility and interest in State and National affairs resulting therefrom has been accepted and manifested has demonstrated the wisdom of that policy. It is these conditions working with the chief elements of the western population and the rapid growth

of communities which will progressively overcome the obstacles to complete assimilation of the permanent constituents of the population of the west.

Judging from the past and from the work which is going on at present, the conclusion must be reached that the Northwest will become as thoroughly American as any part of the nation; and in the future the typical American may not be the descendant of the English Puritan or Cavalier, but one whose parents came later from Central or Northern Europe.

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appreciated of getting this into the power of the United States, if the Union were to remain intact.

We have noticed the gradual nature of the westward movement in the South where the frontiersmen had to push their way over the mountains and into Kentucky and Tennessee by following the Indian trails or making paths for themselves. In these early journeys the difficulties were very great. At first there could be only the pack-horse with the few absolutely necessary household utensils. In some places the routes were traversable enough by ox-wagons. Even then the journey was long, laborious, and dangerous. While pack-beast and ox-wagon remained the only means of communication, there could be no extensive trade between East and West, because bulky articles, such as grain could not be exported.

If the West had been forced to depend upon its over-mountain route for its contact with its markets, there would never have been any commercial development worth mentioning. Only articles which possess great value in small bulk can make that kind of commerce profitable. The South American mountains may be crossed by a profitable commerce because the merchandise is silver and gold. The camel trains on the Sahara may carry on trade for ages at a profit because they bear the light and costly wares of Central Africa. But the Mississippi States in their first years were obliged to export grain and meat and other raw materials if they were to engage in commerce, and the bulk and weight of these articles made it impossible to transport them profitably on pack animals or in wagons for a great distance. In the early period of settlement there could be no wagon roads through a sparsely settled forest country because the expense of their construction was beyond the means of the few inhabitants of the region in which they were needed.

Early travel into the interior of Michigan and other wooded sections was by horseback and the use of pack animals. When settlement began in Indiana there were

no roads in the interior of the Territory. The only semblance to one was an Indian trail from Vincennes to the Falls of the Ohio, which was used by pack-horses.

Governor Cass saw the need of suitable highways if Michigan was to grow, and so urged upon Congress the necessity of building a road around the end of Lake Erie. He succeeded in securing national aid for this purpose by impressing Congress with the value of the proposed road for military purposes. In 1820, a road was built to Chicago and the expense was paid by the government of the Territory of Michigan.

While there was always some travel upon the landways, much more of it was by water. The rivers flowed in the right direction to take the people into the new country. Travel by them was easier, quicker, and cheaper and the emigrants could take their household goods with them. The western settlement was begun by the men who gradually crossed the mountains into eastern Kentucky and Tennessee, but these were very few compared with the hundreds who settled a little later in northern Kentucky and all along the northern bank of the Ohio, who reached their destination by means of the river. Before the building of railroads nearly all the settlements were on navigable streams. It was easy to reach such places, and what was of equal importance, if the country was to grow, it was easy to export the bulky products and much more convenient to import products by the river than to bring them overland on pack-horses or wains.

The rapid peopling of the interior was due to the vast network of inland waterways of which the Mississippi and its branches furnished fifteen thousand four hundred and ten miles of waterways navigable for good-sized craft, and in addition to this were the Great Lakes with the rivers flowing into them. By means of the water communications the people could easily pass from one point in the interior to another and select the places best suited for settlement.

In the early part of the nineteenth century, the Ohio was the great highway by which the Northwest was settled and its trade developed. Two of its navigable branches, the Monongahela and the Alleghany, brought many pioneers and their goods to the main stream at the junction, now Pittsburg, where the two streams together form the Ohio, which the early French settlers called "The Beautiful River."

In the period before the opening of steam navigation there were a number of different styles of craft used for travel on the rivers. First of all was the Indian canoe, which for its swiftness and ease of transportation from one stream to another was adopted by the whites, especially for use on the smaller streams. When only a small amount of freight, like the Indian trader's load of furs, was to be carried, the canoe was used. Some of these craft were so small that but one man could ride in them at a time, others would comfortably carry a dozen.

But the West would not be settled by the men who depended upon the canoe for transportation. It was not fitted for carrying bulky articles. It could never develop the commercial possibilities of the section. To do that there was the necessity of the larger, clumsier bateaux, barges, or broad-horns, as the flatboats were variously called. The settlement of the West began in earnest when the emigrant from the East with his wife and children and his household goods, possibly also his domestic animals, floated down the Ohio until he found a place where he desired to build his home.

These flatboats were also used for carrying produce down the Ohio and the other branches of the Mississippi to New Orleans or for trading at the plantations along the Mississippi. They often carried a cargo amounting to forty or fifty tons. The process of getting one of these boats up stream was a difficult one, especially where there were shallows or rapids. It was therefore usual to sell them at their destination.

Another form of river craft in use, on the smaller tributaries of the Ohio in particular, was the keelboat. This was roughly constructed and made long and narrow, being twelve to fifteen feet in width and fifty or more in length. These keelboats were covered and would carry from twenty to forty tons of freight. The greater portion of the craft was used for freight, but at one end there was a rude cabin for crew or passengers. The boats floated down stream with the current, but sometimes sails were used. They were usually pushed up stream by means of setting-poles. Half the crew worked on each side of the boat. They "set," that is to say, plunged their poles into the water until they rested upon the bed of the river, at the bow of the boat, then resting the end of the pole on the shoulder walked slowly aft pushing with all their strength; then they returned to the bow and repeated the process again and again until the day's work was done or a landing made. At the best, the voyage up stream was one of extreme difficulty and slowness, though less dangerous than the downward journey. Fifteen miles was considered a good day's journey. Low water, sandbars, and contrary winds sometimes made progress impossible, and the men would have to wait until circumstances were more favorable.

The narrow keelboat made it possible for those who had settled on the smaller branches of the Ohio to get their supplies from down the river and to send out their produce. But the up-river trade could be only a small one, at the best, and because of the difficulty and expense of transportation, the price of commodities procured by it remained very high. It is probable that up to 1817 the entire annual tonnage of all the boats ascending the Ohio and the Lower Mississippi did not exceed sixty-five hundred tons. The flatboat and keelboat continued to be used on the Mississippi down to the time of the Civil War.

The round trip between Pittsburg and Cincinnati was made in four weeks on the boats plying on the Ohio in 1794. Two boats were at that time going regularly over

the route, and were advertised to make the round trip in four weeks. Others were added a few years later, and then the packets were dispatched weekly from both ends of the route. In the advertisements the proprietors stated that "having maturely considered the many inconveniences and dangers incident to the common method hitherto adopted of navigating the Ohio, and being influenced by a love of philanthropy and desire of being serviceable to the public, they have taken great pains to render the accommodations on board the boats as agreeable and convenient as they could possibly be made. No danger need be apprehended from the enemy, as every person on board will be under cover, made proof against rifle or musquet balls, and convenient port-holes for firing out of. Each of the boats are armed with six pieces, carrying a pound ball; also with a number of good muskets and amply supplied with plenty of ammunition, strongly manned with choice hands, and the masters of approved knowledge. A separate cabin from that designed for the men is partitioned off for the accommodation of ladies on their passage. Passengers will be supplied with provisions and liquors of all kinds, of the first quality, at the most reasonable rates possible."

By the beginning of the nineteenth century a trade of greater importance had begun. Ship timber was cheap and of a good quality, and schooners and brigs varying from fifty to four hundred tons burden were built on the Ohio. These not only went down to New Orleans as did the barges, but with careful navigation and favorable conditions continued their journey to the Atlantic ports and the West Indies, and even to Europe. They were not designed to ascend the river again. At the best, great risk attended such enterprises, especially in the case of the larger vessels, and the losses were so great as to be discouraging. Besides this, a trade which was all one way, as the craft did not again ascend the rivers, was neither completely satisfactory nor large.

ADVANCED TIBKVBA

STANFORD LIBRARY

Norman W. Kittson,
Pioneer of transportation in upper Missouri.

General Henry H. Sibley,
First Governor of Minnesota.

Both in possession of the Minnesota Historical Society.

The first steamboat on the Ohio was built at Pittsburg by Nicholas J. Roosevelt in 1811, and the builder made a trip to New Orleans in fourteen days in October of that year. But the use of steamboats on that river did not become of practical importance until 1817. While the schooners and barges continued their down-river trade, the up-river traffic was changed by the introduction of steamboats. These were of incalculable value in developing the West in the days before the railroads. The first steamboats were built like those on the Hudson and other deep rivers of the Atlantic seaboard. They drew too much water for navigating the shallow waters of the Ohio and the Mississippi. After various experiments a boat was produced specially fitted for the western rivers. The new model was so broad and flat that on a draft of not more than four feet of water the average burden of the boats was two thousand tons. As soon as these boats were in operation a new era was opened in navigation, and, by 1832, over four hundred steamboats were making regular trips up and down the Mississippi. In 1844, there were fifteen thousand seven hundred and fifty persons engaged in the river traffic.

From 1830 to 1837, the steamboat tonnage on the western rivers rose from sixty-three thousand and fifty-three to two hundred and fifty-three thousand six hundred and sixty-one.

In Michigan the first steamboat, *Walk-in-the-Water*, arrived at Detroit from Buffalo, New York, on her first trip, August 27, 1818. The next year it reached Mackinac and the era of steam navigation could be said to be fairly begun. In 1826, there were several steamboats plying on Lake Erie. In 1830, there was a daily line between Buffalo and Detroit.

The first steamer that ascended the upper Mississippi to Fort Snelling was the *Virginia*, a stern-wheeled boat, which arrived at the Fort in May, 1823. Previous to this date keelboats were used exclusively for transporting troops

and supplies. The length of the average trip from St. Louis to Fort Snelling was sixty days.

Fortunes were acquired by these early steamboat owners who could make the trip in a fraction of the time required by the barge and could take larger cargoes.

The difficulty of transportation also explains why there was so little emigration from New England at the beginning of the westward movement. It was not an easy matter for the New Englander or the New Yorker to reach the West. He must make a long journey before he could reach a river which would float him to his destination. In the early part of the nineteenth century, the people from New England and New York found the way to the West easier because of the opening of the Erie Canal. The immense importance of this in the development of the West and Northwest has been seldom realized. The building of the canal was an undertaking of great magnitude at the time and was first planned for the improvement of the waterways between Albany and Oswego, and Lake Ontario was looked upon as the natural western terminus, though every one agreed that a canal from the Hudson to Lake Erie would be far better if expense was not to be considered. Careful surveys revealed the fact that there was a natural basin through central New York, well supplied with elevated lakes, which would furnish water for the canal, and that other conditions were very favorable for canal building.

The War of 1812 had emphasized the necessity of some better means of communication than existed at that time between East and West. The carriage of military supplies to the Lakes from the East had been slow and expensive. It was also seen how a through waterway would facilitate commerce.

This canal was opened in 1825. The next year nineteen thousand boats passed through it to the Hudson, showing at once the great value of this waterway, by which the East and West were brought into closer contact. Immigrants and their goods could now go from New York City or

points on the Hudson by that river into the canal and to the Lakes. Thus a waterway was opened from New York City to the western end of Lake Superior. As a result an immense territory became easily accessible to the would-be settlers; for not only the region through which the canal ran and the shores of the Lakes, but also the land lying on the navigable rivers emptying into the Lakes could now be easily reached. And beyond that, a system of canals was developed in the old Northwest by which interior points and river systems were made accessible.

The example of New York was followed by the States of the old Northwest, several of them being unusually well fitted by nature for canalization. The Ohio and Lake Erie Canal began at Portsmouth on Ohio River and continued to Cleveland on Lake Erie, a distance of three hundred and seven miles. It was begun in 1825, when De Witt Clinton, the father of the Erie Canal, removed the first shovelful of earth, and completed in 1832. Its cost was $5,000,000.

The Maumee Canal was begun in 1825, and extended from Cincinnati, Ohio, to Defiance, a distance of one hundred and seventy-eight miles. Here it met the northern part of the Wabash and Erie Canal, which extended to Toledo. The entire distance from Cincinnati to Toledo by canal was two hundred and sixty-five miles, and the work cost $3,750,000. This was completed in 1834.

There were short branches which brought other places into connection with the system. Much of Ohio's rapid development after 1825 was due to this canal system by which all parts of the States were given water communication with Mississippi River and the Atlantic Ocean.

Indiana was less fortunately situated for water transportation. It had the Ohio on the south and was touched on the north by Lake Michigan. It had two canals which were important in its early development. The first was the Wabash and Erie, already mentioned, which began at Toledo, crossing the northwestern part of Ohio and the

State of Indiana in a southwesterly direction, and entered Ohio River at Evansville. Construction began at Fort Wayne, February 22, 1832, but difficulties were encountered in getting suitable material for locks and waterways, so that more than three years passed before the first section of thirty-two miles from Fort Wayne to Huntington was in operation. Its entire length was four hundred and fifty-eight and three-eighths miles; it was not completed to Evansville until 1853, but parts were in operation a decade before and these were very valuable to the State. After 1853, the competition of the newly opened railroads seriously interfered with its profitable operation. The cost of maintenance was very heavy, and merchants came to depend more and more upon the railroads, which after a few years paralleled nearly the whole course of the canal.

The second Indiana canal was the White Water, from Lawrenceville to Hagerstown, which was also of great value till superseded by the railroad.

The desirability of connecting Lake Michigan and the Mississippi by canal was evident at an early date, and the rivers are so located that it did not seem a difficult matter. The wish took definite shape in 1825, when the Illinois and Michigan Canal Association was organized. In 1827, Congress granted two hundred and twenty-four thousand three hundred and twenty-two acres of land to the State to aid in making the canal. It was built in 1836–1848, and connected Lake Michigan, at Chicago, with Mississippi River at La Salle, the head of navigation on the Illinois. It was ninety-six miles long. This canal was very influential in giving the impulse which made Chicago the greatest commercial city in the West.

In the States which were formed later, canals were not so important, partly because the conditions were not so favorable for that kind of waterway, but mainly because of the advance in railroad building and the demand for quicker transportation than the canal boats furnished.

Several of the old canals remain in use. Of these, the Erie is of the greatest importance. The Cincinnati and Toledo, built in 1835, is still in operation. So is the Ohio Canal, between Cleveland and Portsmouth, built in the same year. In 1843, the Hocking Canal was built between Carroll and Nelsonville, Ohio, and is still doing good service. The Illinois and Michigan is still in commission between La Salle and Chicago. The canals are in operation at the present time because they furnish cheap transportation for bulky, imperishable goods, in moving which they can compete with the railroads.

One result of this canal building in New York and the old Northwest was that products which had been worthless now became of value because of the ease of transportation. Lumber could be shipped to the East, where it was valuable, while in the wooded section of the West it was an encumbrance. Grain could be economically sent to New York, and it is probable that the Erie Canal and its tributaries established the commercial supremacy of that city.

There were two water routes to the West for emigrants from Europe: one, by way of New Orleans and up the Mississippi and its branches; the other, by way of the Hudson, the Erie Canal, and the Lakes. The second of these, because it was shorter and cheaper, received the much larger share of the travel. Travellers using this route could go by the Ohio Canal to Columbus, or to Ohio River at Portsmouth, and from Ohio River to various parts of the West by steamboat. There was a steamer route from Buffalo to Detroit, which ran whenever Lake Erie was open. The steamers stopped at Erie, Ashtabula, Cleveland, Sandusky, and other places, where stages and transportation wagons were awaiting the immigrants and their goods.

Emigrants to the southern part of Ohio, Indiana, or Illinois might, as early as 1837, go from Philadelphia to Pittsburg by railroad and canal, and then take the Ohio River steamboats; or by the Baltimore and Ohio Railroad

established and the work carried on in a foreign language where there is a large number of foreigners. The public school in the village must be conducted in English.

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Up to 1850, western Michigan received its goods from the East by way of the Erie Canal—after its completion—and the Lakes, to convenient harbors, from which they were rafted or placed on boats and poled up Grand, Kalamazoo, and St. Joseph Rivers and their tributaries. In the fifth and sixth decades of the present century, the Lake Shore, Michigan Central, and Great Western Railroads were completed. These roads gave direct communication with the East, and a rapid industrial development of the southern peninsula of Michigan followed.

Wisconsin is less dependent upon artificial roads than almost any State of the Northwest, because of its navigable lakes and rivers; but the railroad mileage in 1900 was six thousand five hundred and thirty-one.

Minnesota's rapid growth is due in part to the fact that railroad construction began early in the history of the State. By these railroads connection was made with the agricultural sections further west, and also with the great centres of population in the East.

Montana and North and South Dakota differ from the States to the south and east in that there are in these States so few navigable rivers; so that the lands away from the streams could not be utilized till the coming of the railroads, which from the beginning the settlements have followed.

Iowa was well supplied with railroads, because it is in the path of the continental traffic from east to west, and in it the railroads furnish the principal means of communication.

The need of means of communication between East and West has been so great that Congress, from time to time, has made liberal gifts of land to States and private companies for building roads, canals, and railways. Some of the States of the central West, seeing the need of improvement, have incurred burdensome debts in promoting better communication. Some of the early national grants for this purpose were as follows. In 1802 and 1803, lands were granted to the inhabitants of Ohio for the purpose of laying

out public roads leading to Ohio River. On March 2, 1827, there was granted to Indiana a strip of land formerly held by the Pottawattomie Indians, the proceeds of the sale thereof to be applied to building a road from Lake Michigan *via* Indianapolis to some convenient point on Ohio River. On the next day, a grant was made to Ohio of two sections of land along the entire line of a road to be constructed from Sandusky to Columbus.

Means of transportation, natural and artificial, were the first essential in the progress of the West. The States had abundant natural resources which needed only development to bring prosperity. The first settlers from the East were farmers, and were attracted by the agricultural possibilities of the land along the river courses. They found that the soil of Ohio responded more readily than did the rocky lands of New England, and that as they went farther west into the prairie region there were lands which would produce good crops without the preliminary clearing necessary in Ohio. A very large proportion of the land in the southern tier of States in the Old Northwest was found to be good farm land. This was true in a lesser degree of the northern tier of States, which required more labor to clear them of the forests. This abundance of valuable timber in the northern States became a source of great wealth as soon as there were means of transporting it.

In Michigan the most valuable resource has been the vast forests of pine and hard wood. During the first half of the nineteenth century, when there was a great influx of settlers into the neighborhood of Detroit, timber was sawed by mills for the local trade. The lumber industry proper began when the first steam sawmill was built by Harvey Williams in the Saginaw Valley. This was soon followed by others, but because of the difficulties of transportation the trade was mainly local. As early as 1835 there were two small sawmills near Grand Rapids, which were sufficient for all needs. Chicago was at that time a village of two thousand inhabitants and furnished the only market for

of the Alleghany Mountains, and since 1870 has ranked next to Pennsylvania. The first furnace was established in Ohio in 1804 on Yellow Creek, near Youngstown. In 1825, a furnace was in operation in what is now Lake County, east of Cleveland. This was probably the beginning of the industry on Lake Erie. There was a rapid increase in furnaces till 1837. The ore used was taken from the local deposits, and the fuel was the charcoal made from the wood from the neighboring forests. By 1837, the cost of charcoal became greater because of the destruction of the forests, and the industry declined. In 1846, a furnace was built in Mahoning County which used bituminous coal for fuel, and from that time the industry took on new life. Later, coke was substituted for bituminous coal. In 1900, the manufacture of iron and steel was carried on in the eastern and northeastern parts of Ohio. It is not dependent upon the coal and iron mined in the State, but gets its ore from the Lake Superior region more cheaply than any of the eastern iron centres, and, because of good transportation facilities, it also gets cheap coke from West Virginia and Pennsylvania. The number of manufacturing establishments in the State has risen from ten thousand six hundred and twenty-two to thirty-two thousand three hundred and ninety-eight in the half century from 1850–1900; capital employed from $29,019,538 to $605,792,266; and the value of the product from $62,692,279 to $832,438,113.

In 1810, Indiana had thirty-three grist mills, fourteen saw mills, eighteen tanneries, twenty-eight distilleries, three powder mills, one thousand two hundred and fifty-six looms, and one thousand three hundred and fifty-six spinning wheels. This last suggests that the manufacturing industries were carried on mainly in the homes by the women, and that the principal articles made were the materials for clothing the family. Nearly everything was for home consumption. The number of manufacturing establishments in Indiana rose in the period from 1850–1900 from four

thousand three hundred and ninety-two to eighteen thousand and fifteen; the capital employed from $7,750,402 to $234,481,528; and the value of the products from $18,725,423 to $378,120,140.

In 1837–1838, steam mills for flouring and sawing were common in Illinois, the largest of the flouring mills having a capacity of one hundred barrels a day. Cotton factories run by animal power were in operation in several counties. These were small, not having more than two hundred spindles in any one of them. Coarse cotton clothing was manufactured in the southern part of the State from the cotton raised there. Woollen cloth was also made, and also goods composed of mixture of woollen and cotton. A small amount of linen was made from flax raised in the State. Boat building had become one of the established industries. Steamboats were made along the Mississippi. There were iron foundries at Mount Carmel and Springfield. During the last half of the nineteenth century the manufacturing establishments increased in number from three thousand one hundred and sixty-two to thirty-eight thousand three hundred and sixty, with a growth of capital from $6,217,765 to $776,829,598, and the value of the products rose from $16,534,272 to $1,259,730,168.

During this same period Michigan increased in population from three hundred and ninety-seven thousand six hundred and fifty-four to two million four hundred and twenty thousand nine hundred and eighty-two; the average number of wage earners employed in manufacturing concerns increased from nine thousand three hundred and forty-four to one hundred and sixty-two thousand three hundred and fifty-five, embracing in 1900 six and seven-tenths per cent of the entire population as compared with two and three-tenths in 1850. The total value of product in the manufacturing and mechanical industries in 1850 was $11,169,002, while fifty years later it had risen to $356,944,082.

In the same fifty years Wisconsin increased in population from three hundred and five thousand three hundred

ninety-one to two million sixty-two thousand nine ed and sixteen, and the average number of wage s rose from six thousand and eighty-nine, which was per cent of the entire population, to one hundred and -two thousand and seventy-six which was six and nine- is per cent of the population. The total value of pro- s in the manufacturing and mechanical industries in was $9,293,068 and in 1900 was $360,818,942.

nnesota increased in population from six thousand eventy-seven in 1850 to one million seven hundred and -one thousand nine hundred and eighty-six in 1900, the age number of wage earners from sixty-three to seventy sand two hundred and thirty-four, which was an increase one to four and four-tenths per cent in the fifty years. total value of the products in the manufacturing and anical industries rose from $58,300 to $262,655,881.

va has been from its beginning an agricultural country, there has been a steady growth in its manufacturing stries during the last half century. Its population in o, was one hundred and ninety-two thousand two hun- u and fourteen, and in 1900, two million thirty-nine thousand and two hundred and fifty-four. The number of wage earners employed has risen from one thousand seven hundred and seven to fifty-eight thousand five hundred and fifty-three, a change from nine-tenths of one per cent to two and six-tenths per cent. In 1850, the total value of the products of the manufacturing and mechanical industries was $3,551,783, and in 1900, $164,617,877.

Nebraska is an agricultural and stock-raising State, but has grown rapidly in manufacturing in the years since its admission to statehood. Its first census statistics were taken in 1860. From that time till 1900 there was an increase in the number of manufacturing establishments from one hundred and seven to five thousand four hundred and fourteen, and in capital employed from $266,575 to $71,982,127, while the value of the products rose from $607,328 to $143,990,102.

North Dakota is not a manufacturing State, and does little outside of milling. Statistics are available only for the years 1890 and 1900, because before that time the State was a part of the Territory of Dakota. In 1890, it had three hundred and eighty-two manufacturing concerns, and increased the number in ten years to one thousand one hundred and thirty. The capital invested grew from $2,894,553 to $5,396,490, and the value of the products from $5,028,107 to $9,183,114.

South Dakota's statistics are for the same years. In 1890, there were four hundred and ninety-nine manufacturing establishments in the State, and in 1900 one thousand six hundred and thirty-nine. In the former year the capital was $3,207,796, and in the latter $7,578,895, while the products increased from $5,682,748 to $12,231,239.

Census statistics of Montana go back only to 1870, but in the thirty years before 1900 there was an increase in the number of manufacturing plants from two hundred and one to one thousand and eighty, and in the capital invested from $1,794,300 to $40,945,846, while the value of the products increased from $2,494,511 to $57,075,824.

In the industrial development of the West there were a few cities which forged ahead of the others and became great business centres. Their prominence was not due solely to the enterprise of the people living in them, but, as a rule, to advantage of location. In several cases, these locations were the sites of earlier settlements of fur traders or were the gathering places of Indians. The same reasons which led to their choice by Indians and French continued to operate in favor of the locations when they became trading centres for the permanent settlers. In nearly every case, the city which surpassed its neighbor in size and importance was one which had unusual transportation facilities.

The most eastern of these commercial centres is Cleveland, Ohio. When Moses Cleaveland and his associates from Connecticut selected this spot in 1796 as the place for a city, they were attracted by the favorable location,

where the mouth of Cuyahoga River made a natural harbor on the lake. They rightly believed that this fact would give Cleveland preëminence in that part of Ohio. The place did not grow rapidly until after the completion of the Erie Canal, in 1825, when it began to be a distributing centre for settlers. In 1830 it was a town of one thousand and seventy-six inhabitants, and it became a city in 1836. In 1840 its population was six thousand and seventy-one, and it grew rapidly from that time. In 1900 it contained three hundred and eighty-one thousand seven hundred and sixty-eight inhabitants. Its rapid growth began in 1834, when the canal which connected it with Ohio River was opened, so that it became a point for the departure of settlers and goods into the interior, having special advantages because it was the nearest lake port to the eastern States. The produce from the interior coming through the canal was sent from Cleveland to various points on the Lakes or to the east. Its harbor has been greatly improved by the United States government, so that it is now one of the best of the lake ports. It has become a railroad centre with a steadily increasing traffic. Its geographical location has also been of much assistance in developing the manufacture of iron and steel. Coal from northern Ohio and iron ore from the Lake Superior mines can be cheaply transported to Cleveland, so that it has become one of the most important iron manufacturing points in the West.

Many of the reasons for the rapid growth of Cleveland would apply with equal force to Toledo, which came into early commercial prominence in Ohio. It had such a promising future before it that the Ohio-Michigan boundary dispute, which led to the "Toledo War" was centred mainly in the question of the possession of this city. Michigan was unwillingly compelled to take the northern peninsula in exchange for Toledo and a little strip of farm land across northern Ohio. Toledo was settled in 1832 and incorporated in 1836, the same year in which Cleveland became a city. It was located on Maumee River, eight

The Falls of St. Anthony, with Minneapolis and St. Paul, in 1857. *From a copy of the sketch by E. Whitfield, in possession of the Minnesota Historical Society.*

miles from Lake Erie. The mouth of the river furnished a fine harbor. Its growth in the early period was due to the fact that it was the northern terminus of the Maumee Canal, which gave it connection with Ohio River at Cincinnati, and of the Wabash and Erie Canal, which gave Indiana an outlet on Lake Erie. It has become a large grain and lumber centre. The population in 1900 was one hundred and thirty-one thousand eight hundred and twenty-two.

These two cities shared the commerce of northern Ohio. In the southern part, Cincinnati had undisputed supremacy. It was first settled by white men in 1780, and in 1800, had a population of seven hundred and fifty, which at the end of the century had risen to three hundred and twenty-five thousand nine hundred and two. One element in its growth was its favorable location on Ohio River. It was especially noted for the building of steamboats in the early days of steam navigation on the Ohio. Like the two cities just considered, its growth was stimulated by the canal connection with Lake Erie. Its principal industry from 1818 to 1861 was pork packing, in which it led every city in the West. It was situated in the midst of a rich agricultural region from which farmers could easily transport their pork either by the Ohio or the canal. The salt mines on the Great Kanawha and in central New York were easily accessible by water, so that it was well located to make a success of this peculiarly western industry. From 1800 to 1850, it was the leading commercial city in the West. It was one of the early cities to come into railroad communication with the East and has a large railroad business.

Columbus, Ohio, and Indianapolis, Indiana, both owe their development to the fact that they are situated in the midst of agricultural regions.

Chicago has become the commercial and industrial centre of the West. This is due, in large measure, to its fine location. Situated on the southern extremity of Lake Michigan, it commanded the Lake trade. The railroads connecting the East and the West passed through the

place and it became also the centre for railroad connection between the Northwest and East. In addition to its lake and railroad facilities, the Illinois and Michigan Canal, constructed in 1836–1848, was of much value in the early growth of Chicago. Chicago became the chief distributing depot of the West, and the same reasons which gave it commercial supremacy have also given it a foremost place in manufacturing. It is the centre for the slaughtering and meat-packing industry, and because of its convenience to the coal fields of Illinois and the iron ore regions of Lake Superior its manufacture of iron and steel has assumed large proportions.

Detroit began its prominence in the fur trading days because of its convenient situation. It was in close touch with the lake travel, north and south. These conditions have given it its present prosperity. It is the natural point of connection between Canada and the United States, and commands the trade of the southern peninsula of Michigan.

St. Paul is at the head of navigation on the Mississippi, twenty-three hundred miles from its mouth, and so a natural trading centre. It was so in the fur trading days when the trappers brought their furs here and came to this point for their supplies. Before the railroad days it was an important port for steamboat lines.

Minneapolis owes its industrial development to the water power furnished by the Falls of St. Anthony. Large mills were erected, in view of this great natural advantage. Many settlers came in the period between 1850 and 1860, and since that time the growth has been rapid. The abundant water power also led to manufacturing.

There are certain industries which have been developed in the Mississippi valley to a remarkable degree, owing to favoring natural conditions. One of these has been the milling industry. All the Northwestern States from Ohio to Montana have proved to be grain growing States. In nearly all of them the soil needed no preparation for the plow, and was rich enough to raise crops without artificial

fertilizing. Conditions were favorable as to soil and climate for raising wheat and corn, so that these States became the granary of the nation and have furnished large supplies of flour to Europe. Railroad building has brought the wheat lands into easy communication with industrial centres such as Minneapolis and Chicago.

Grist mills for supplying the local demand were established wherever there was a group of settlers, but there would be no possibility of sending their bulky products to distant markets until transportation facilities were good. Ohio, Indiana, and Illinois are large flour-producing States, but they have been surpassed by Minnesota, which has access not only to its own wheat fields but to those of the neighboring States of North and South Dakota and of Canada. Minnesota's railroad facilities are good, and in addition to that it has the advantage of the water power at the Falls of St. Anthony; so that Minnesota produces fourteen and one-tenth per cent of the entire flour supply of the country.

Minneapolis is the largest flour market in the world. The first grist mill there began operation in 1823, with millstones brought from St. Louis. The flour and grist mill industry developed very slowly, as for many years Minnesota did not raise wheat enough to feed its own population. The second grist mill was erected in 1843. In 1846, bolting cloth was first used in Washington County. It was not until 1858 that the grain industry came into prominence, when considerable shipments of wheat were made to other States. Spring wheat was grown, and was of inferior value to winter wheat because the flour made from it was darker, owing to the impossibility of separating the hard outer covering from the interior of the grain. Between 1870 and 1890 this method gave way to what is called the new process of milling, or the manufacture of flour by medium high grinding. The new process of making flour was introduced into the United States by Mr. N. La Croix, a French miller, who settled at Faribault,

Minnesota, in 1860, and removed later to Minneapolis. Other millers adopted his methods, and the milling business in Minneapolis was given a remarkable impetus by the new departure. The new process soon became general throughout the United States, and large quantities of flour were exported. This process, by which the flour making of the continent was revolutionized, differed from the old in that it gradually reduced the grain to flour by a number of distinct processes instead of by one grinding. By this method the bran is entirely removed even from spring wheat, which is more nutritious than winter wheat, and therefore commands a higher price. As a result of the discovery of this process, there arose an immense demand for the wheat of the Dakotas and northern Wisconsin, leading to the rapid development of that region.

Not only in wheat, but in other grains, especially in the production of corn, these central Western States have unsurpassed advantages, so that the flour and grist mill products make up a considerable part of the whole value of the manufactured products. The total value of the flouring and grist mill products in Minnesota in 1900 was $83,877,709.

Flour and grist mill products ranked second among the industries of the State of Michigan in 1900, with a tendency toward decreasing the number of mills, increasing the output, and concentrating in a few centres.

This is also true of Wisconsin. The value of flouring and grist mill products is increasing, and in 1900 amounted to $26,327,942, about half of the raw material being brought in from other States.

In Iowa this industry has the third place, the total value of the product in 1900 being $13,823,073, an increase of sixteen and eight-tenths per cent in ten years.

Cheap and abundant water power and a supply of high-grade wheat have stimulated milling in Montana. The value of the product increased from $302,965 in 1890 to $995,702 in 1900.

North Dakota is mainly an agricultural State, and nearly all the goods manufactured are for home consumption. The exception to this is the flour and grist mill industry. During 1900 the products of the flour and grist mills were valued at $4,134,023, which was forty-five per cent of the total value of the manufactured products of the whole State.

In South Dakota the principal industries are mining and agriculture, but there has been a rapid increase in ten years in the manufactured products, the total value of the flour and grist mill products being $3,379,843 in 1900.

Another industry which has developed with the settlement of the West has been that of slaughtering and meat packing. In the period before westward expansion began, meat products were raised near the point of consumption. But with the settlement of the western country a vast territory was opened which was suitable for stock raising, and the expansion of the railroad systems made it possible to transport the stock to the centres of population. Improved methods of refrigeration and canning and the utilization of every part of the animal have brought this industry to national importance. Much of Western prosperity has grown from and depends upon this branch of production. The corn belt is also the hog belt, because the farmer has found it more profitable to transform his corn into pork than to ship it to a distant market; so with the grain crops and hay. They are all subsidiary to the production of meat. The nation now depends upon the West for its meat supply, and there is enough left over for a large exportation to other parts of the world. As nearly as can be ascertained, this change began when a packer began operations in Cincinnati in 1818. Slaughtering was begun in Chicago in 1823, but packing did not begin till 1827, when a small amount of pork was sent by a Chicago firm to Detroit. It is reported that nine thousand six hundred hogs were packed in Chicago in 1834. Cincinnati had already gained prominence as the pork-packing centre, for in 1832–1833 there were

a number of establishments in operation, and it is claimed that eighty-five thousand hogs were slaughtered during that winter.

This industry grew in the river towns in southern Ohio and small plants became numerous. The products were transported by water to the south and east. Pork was the only product. The slaughtering was done by the farmers, who sent the meat they did not need to some neighboring packer or storekeeper, who cured it. Much of the pork was sent down the Mississippi to New Orleans after the break-up of the ice in the spring, and was exchanged there for the products of the southern States. It was reshipped from New Orleans and reached the eastern seaport cities.

Packing plants were established at Columbus, Chillicothe, and Hamilton in Ohio and in some places in Indiana and Illinois. In the packing season of 1848–1849, four hundred and seventy-five thousand hogs were packed at Cincinnati. This city maintained its preëminence in the business till 1861–1862, when Chicago took the lead which it has since held. The reasons for this change in leadership is evident. With the continued westward movement of population, Cincinnati ceased to be in the centre of the population, and Chicago took its place.

Meat packing has been largely a western industry and has increased with phenomenal rapidity. In the fifty years from 1850–1900, the number of establishments increased from one hundred and eighty-five to nine hundred and twenty-one; the capital invested from $3,482,500 to $189,198,264; the number of wage earners from three thousand two hundred and seventy-six to sixty-eight thousand five hundred and thirty-four, and the value of the product from $11,981,642 to $785,562,433. There has been a westward movement in the meat industry. In the decade, 1850–1860, the centre was at Cincinnati and in the valley of Ohio River. The greatest increase in the industry came in the period between 1860–1870. There was a new development in this decade when the dressed

beef trade began. The refrigerator car was invented, and in September, 1869, the first cargo of dressed beef was shipped from Chicago to Boston. In the decade from 1870 to 1880 the various refrigerating processes were greatly improved, and much more work was done in the summer. Up to 1872 nearly all the slaughtering was done in the winter, but in the packing year of 1872–1873 five hundred and five thousand hogs were killed during the summer season. Winter packing increased during this decade twenty-eight and five-tenths per cent, while summer packing increased seven hundred and one and six-tenths per cent, due to improvement in refrigerating processes. The export of fresh beef began in 1876. Canning beef was attempted in Chicago in the sixties, but not taken up on a large scale till 1879.

The decade 1880–1890 is the period in which the by-products were utilized. The packers began to use what had been formerly thrown away. In the early days of beef packing none of the by-products were saved. There have been various inventions, so that what was once a waste has become a source of profit, and the entire animal is utilized. The blood is dried and sold for clarifying purposes, the entrails are cleaned and made into sausage casings, the hoofs are turned into neatsfoot oil, the parings of the hoofs, hides, and bones are converted into glue, the finest of the fats are turned into butterine, lard, oils, and the finest tallow, the cruder fats are made into soap grease, the hides are marketed for the manufacture of leather, the horns are sold to comb makers, the larger bones are used for the making of knife handles and for other purposes, the switches and tail ends are sold to hair mattress makers, and the short hair which cannot be dried and curled for sale is sold to felt works.

The period 1890–1900 is marked by the concentration of the industry in large places. In 1900, there were nine hundred and twenty-one establishments against one thousand one hundred and eighteen ten years before, but with the decrease in the number of concerns there had been an

increase in the capital invested from $116,887,504 to $189,198,264.

In this industry Illinois is far in the lead and is constantly gaining on the other States. In 1900, it furnished more than one-third of the entire output of the country. There has been a large decline in the work of the eastern houses and in those of the extreme West, showing an increasing concentration at Chicago and cities farther south in the Mississippi valley.

CHAPTER XXIV

GENERAL CONCLUSIONS

In the westward movement the American people met and solved problems which have been of peculiar difficulty. The government of the original thirteen States made no provision except in a vague and general way for any addition of territory, and nothing was said in the Constitution as to how new territory should be governed. A part of the question was answered in the Ordinance of 1787, which told how the territory belonging to the United States should be administered. Another and greater problem had to be faced when Louisiana was added to the national domain. The question whether the nation had power to acquire new territory was answered in the affirmative, and it was also decided that the new lands should be divided into States which should have an equal share with the older States in the conduct of national life. In a way which is unique in history, the nation brought the new possessions from a position in which they were without any part in their own government to equality with the existent States. We have traced the process by which this has been accomplished, by giving the people of the new Territories as much power as they could use presently to advantage, and then increasing this power as they were better able to use it.

Another danger which the nation had to face in its early days was that of division, with the Alleghany Mountains as the boundary between the two nations. This was met in

ways which clearly showed the statesmanlike qualities of the lawmakers of the period.

Another question which has not yet been fully settled is that of the treatment of the emigrant from Europe. Should he have full rights as a citizen of a State, and if so, on what conditions, and after how long a period of waiting? The equally difficult question of the assimilation of the foreign element has been more nearly solved in the United States than in any other part of the world, though there still remains much to be accomplished.

The period of westward expansion was not one in which a few great men were leaders and all the others humble followers, the machinery of government was so well understood, and the men who made the early settlements so skilled in the principles of government that few great figures stand before us. There was, as a rule, no occasion for them; the people did not need them. But there were some men who did important work. The man who comes the nearest to being indispensable is George Rogers Clark, the conqueror of the Northwest. It is not clear what would have happened if he had not made his wild but successful campaign; possibly the future of the Northwest would have been a different one.

There were men in abundance in the westward movement who should have an abiding place in the nation's history. Boone, Shelby, Sevier, and Robertson, south of the Ohio, represent the heroic age when the man to be a leader must be an Indian fighter. Cutler, Putnam, and St. Clair represent a company of equally good men who were the pioneers north of the Ohio. They were business men and administrators, who believed that they were doing work of permanent value.

Another man who ought to be remembered is Lewis Cass, Governor of Michigan, who was perhaps the most successful of the early administrators of the Northwest. But taken as a whole, individual men do not figure largely in the westward movement. Not but that there were leaders

of good ability, but because there were so many others in the West who could have done their work nearly, or fully, as well.

This suggests one reason for the successful solution of the problem which the westward movement produced: the large numbers of men and women of energy, ambition, and high character who at the close of the eighteenth century and the beginning of the nineteenth went to the new homes in the West. They went from north and south alike; from Massachusetts and Virginia, and after a time came to understand each other in the new country. Contact with men from other sections wore away prejudices.

The man of the Old Northwest was not a Yankee, though he possessed much of the Yankee shrewdness and enterprise without his narrowness and provincialism. He was not a Southerner, though he had the open hospitality and good fellowship of the Virginian. He differed from the Kentuckian, who was, as a rule, a Southern man who had moved across the mountains. This typical Northwesterner was our first product of American conditions. He was the product of a purely American civilization though there may have been some other than English blood in his veins. More than Southerner or Northerner, he was an American. He was the first product of what we may call our resultant civilization.

This resultant civilization appears in many ways. It is in the political constitution of the country. Fortunately, these Northwest Territorial governments selected their laws from the laws of Northern or Southern States. They took whatever they thought suited their circumstances; so that a new State might have one law from the statutes of North Carolina, and the next one from Massachusetts. The same is true of the local institutions. They did not adopt the strict town meeting organization of the North or the county system of the South, but a combination of the two.

Educationally, the same is true; influences came from North and from South. The same thing is found in the

religious development of the people. The Congregationalist from New England met the zealous Methodist from Kentucky or Tennessee, and the contact did them both good. The Methodist was influenced by the education of his college-bred fellow laborer from New England, and the Congregationalist obtained something of the enthusiasm and rude but stirring eloquence of his Methodist and Baptist co-workers.

The Old Northwest has been likened to the keystone which fits into the top of the arch and holds the structure together. It is such by its geographical position. It has that appearance upon a map of the United States. It looks like a keystone wedged in between the East and the West. Politically, it has been a keystone in holding the nation together. It was a place where men forgot sectionalism; where the Southerner found, after some years of experience, that the New England Yankee was something more than a shrewd, keen seller of clocks that would not go, and nutmegs made of wood. And the New Englander in turn found that the poor white was not a fair representative of the South, but that his Southern fellow settler had many qualities worthy of his admiration.

Commercially, the Old Northwest faced the East and South. Through the Lakes and the Erie Canal, the people were bound to the East, as they were in close contact with the South by means of the Mississippi and its branches. In this way there was a strong tendency toward national unity.

These men of the West accomplished their work through their own intelligence and commonsense, and, more than that, because of their previous training, a training which extends back through generations of Teutonic ancestors. It did not trouble these men greatly if they found, as did the Watauga men south of the Ohio, that they were beyond the jurisdiction of any organized government. They did the sensible thing, and organized a government of their own. Nor did it cause much anxiety when a Northwest

State was formed from a Territory, and a part of the Territory left outside the State limits and without any government. The inhabitants quickly formed a government for themselves. If the constituted authorities failed, as they sometimes did, in a Montana mining camp, the law-abiding miners from north and south could rule and establish order by means of the "Vigilance Committee." How much of the success of the westward movement depended upon the ability which each community had to take care of itself, of course, can never be known. But it is fair to assume that an equal number of Spaniards or Italians, because of their different political training, would have evolved a different system of government, in which one man would have been supreme.

This westward movement of the colonies was by no means inevitable. There was nothing in the nature of things which made it necessary for the English to go beyond the mountains and the sources of the eastward-flowing rivers. They might have had the Alleghanies as their western bounds, as some European statesmen were anxious that they should at the close of the Revolution. Again, they might have stopped at the Mississippi, as some of the American statesmen desired them to do when the Louisiana Purchase was made. Either of these limits would have been natural, and the little nation might have lived a useful life. Certain unpleasant consequences might have followed with a French or an Indian nation over the mountain, or even if the French had had the land beyond Mississippi River. What might have happened under those conditions is only a question for idle speculation. The expansion took place, and, as a result, the United States has acquired other territory and now stretches from ocean to ocean.

There was a time when the West was looked upon as a possible danger to the national life. The East feared that if it were admitted into the Union the States in the Mississippi valley would destroy the supremacy of the East, especially of the Northeast, in national affairs. It was also

feared that the westward expansion resulting from the Louisiana Purchase would be a disaster to the business interests of New England because of the great advantage which would come to the West through the navigation of Mississippi River. These fears were unrealized; New England continued to prosper. Her great cotton factories arose and brought wealth to the North, and much of the cotton came from the dreaded Southwest. This new section, because of its rapid growth as an agricultural region, soon furnished a good market for the manufactured goods of New England, so that the result in this case increased rather than diminished the prosperity of the Northeast.

All these fears were groundless, and instead of a hindrance the West has been a decided help in the cultivation of the spirit of nationality. The commercial dealings of the West were with the Northeast and South alike, through the connection with these two sections by the Lakes and Mississippi River. In addition to this the early settlers came from both places, so that commercial and patriotic reasons have led the West to believe in the Union.

The West has contributed to the prosperity of the nation because from it has come the food supply of the people, so that the East has been free to give its attention more fully to manufacturing. Great industrial cities have arisen in the East which can be easily supplied with food from the West without resorting to the cultivation of inferior soils or importing food from foreign countries.

This great expansion to the west till the Pacific was reached has had certain results on the national life. The United States has become a great nation in territorial extent and because of the amount of fertile lands within its borders it offered opportunities for the coming in of the European emigrant of different races. There was room not only for the natural increase of the population on the Atlantic coast, but for millions of aliens. These fertile valleys have been filling up with prosperous cities and farms, and by the entrance of the foreigner the United States has increased in

population and wealth till it is one of the great nations of the world. This might have happened without the westward expansion, but it is not probable.

The vast amount of fertile land and consequent wealth has been the means of making the United States occupy a position of supremacy on the continent. No other nation can approach it in power. There are no frontiers which need to be jealously guarded against the incursion of an unfriendly neighbor. As a result the United States has never felt the need of maintaining a large standing army, such as burdens most of the nations of Europe, so that the men and money that would be necessary for sustaining a large army may now be engaged in productive occupations. This has freed the nation from a great burden. Had the mouth of Mississippi River and the lands on its western bank remained under the control of some other power, there could have been no such unquestioned supremacy of the United States.

The nation has attained this position not only on the North American Continent, but everywhere in the Western Hemisphere. The South American Republics maintain their freedom from European conquest or control because of the attitude of the United States toward any European aggression in America.

The expansion toward the west established for the North American Continent a civilization of the Anglo-Saxon type; we see the meaning of this as we contrast the United States and South America. Everywhere north of Mexico the Anglo-Saxon rules, while south of the Rio Grande, the Latin race is still supreme. This Purchase settled without question that the Spaniard and his type of civilization could not enter. What that meant for North America we can only surmise as we contrast the Northern with the Southern Continent. The differences in civilization are vast, too great to be enumerated here. The prosperity of South American republics has been delayed for a century, because they were compelled to acquire slowly

what the Anglo-Saxon inherited as his birthright, the ability to govern himself. The fertile country in the Mississippi valley was not subjected to a period of misrule, nor did it run any risk of being so subjected, after the Latin flag was hauled down for the last time at New Orleans. The western country also escaped the possibility of religious despotism which has often been associated with the Latin rule.

The Westward movement with the consequent increase in wealth and territory gave the best opportunity that the world has ever known for the development of democratic institutions. A democracy had succeeded before that time, where the territory was small, but one had never been established which included a country extending from ocean to ocean. In the days when the question was being debated with vigor in the early years of the nineteenth century, there were many who believed that such an experiment was fraught with danger if not with the destruction of the republic; that, from its very nature, a democracy must be of a limited area.

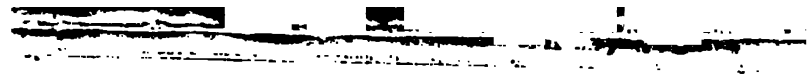
Again, the admission of new members to the Union on an equal footing with the original thirteen colonies was regarded as a dangerous experiment. These changes have been accomplished without bringing disaster, and the newly admitted States have shown themselves as loyal to democratic institutions as the old.

The West has shown a steadily increasing interest in national affairs. The centre of population since 1790 has been moving toward the Mississippi. So has the centre of influence. With the passing of pioneer conditions, the States in the Ohio and Mississippi valleys quickly took a commanding position which shows no sign of changing.

The expansion which included the Mississippi valley prepared the way for further growth to the west, and after the Pacific Coast was reached, trade began with the Orient. It is doubtful what place the United States will have in the settlement of questions in the far East, but it is certain

that the strength of the nation, together with its eastern possessions, will give it much influence. There would have been but little communication between a nation which was confined to the eastern coast of America and the Orient compared with what now exists when only the Pacific separates the two, so that this may be considered one of the indirect results of the Westward movement.

The westward expansion beyond the Alleghanies to the Mississippi and still on to the Pacific must be regarded as a part of the movement toward Anglo-Saxon supremacy, which has been going on since England became a nation. The English race stands for certain principles of government which have endured the test of time. They have been more fully carried out in America than anywhere else, and are at present more influential than ever before.



APPENDIX I

AN ORDINANCE FOR THE GOVERNMENT OF THE TERRITORY OF THE UNITED STATES, NORTH-WEST OF THE RIVER OHIO

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to and be distributed among their children and the descendants of a deceased child in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have in equal parts among them their deceased parent's share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills

in writing, signed and sealed by him or her in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskias, Saint Vincent's, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while

in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the General Assembly therein, unless disapproved of by Congress; but afterwards, the legislature shall have authority to alter them as they shall think fit.

The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the General Assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and

place, to elect representatives from their counties or townships, to represent them in the General Assembly; provided that, for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature; provided that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: Provided, also, that a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years, and, in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member to elect another in his stead, to serve for the residue of the term.

The General Assembly, or Legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum, and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint

and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent: but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the General Assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which for ever hereafter shall be

formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and for ever remain unalterable, unless by common consent, to wit:

ART. 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ART. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate, and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

ART. 3. Religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, schools and the means of education shall for ever be encouraged. The utmost good faith shall always be observed

towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. 4. The said territory, and the States which may be formed therein, shall for ever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States, in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States, in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States, in Congress assembled, nor with any regulations Congress may find necessary, for securing the title in such soil, to the bona fide purchasers. No tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and for ever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, impost, or duty therefor.

ART. 5. There shall be formed in the said territory, not less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: the western State in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Saint Vincent's, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle States shall be bounded by the said direct line, the Wabash, from Post Saint Vincent's to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided, however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government; provided the constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ART. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the

punishment of crimes, whereof the party shall have been duly convicted; provided, always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the 12th.

CHARLES THOMSON, *Secretary*.

APPENDIX II

RESOLUTIONS PASSED BY THE KENTUCKY HOUSE OF REPRESENTATIVES, NOVEMBER 10, 1798

1. *Resolved*, That the several States composing the United States of America, are not united on the principle of unlimited submission to their General Government: but that by compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force: That to this compact each State acceded as a State, and is an integral party, its co-States forming as to itself, the other party: That the Government created by this compact was not made the exclusive or final *judge* of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress.

2. *Resolved*, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and

offences against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" therefore also the same act of Congress, passed on the 14th day of July, 1798, and entitled "An Act in addition to the Act entitled 'An Act for the punishment of certain crimes against the United States;'" as also the act passed by them on the 27th day of June, 1798, entitled "An Act to punish frauds committed on the Bank of the United States," (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution,) are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right, appertains solely and exclusively to the respective States, each within its own territory.

3. *Resolved*, That it is true as a general principle and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and that no power over the freedom of religion, freedom of speech, or freedom of the press, being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States, or to the people: That thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated rather than the use be destroyed; and thus also, they guarded against all abridgment by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this State by a

law passed on the general demand of its citizens, had already protected them from all human restraint or interference: And that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods, and defamation, equally with heresy and false religion, are withheld from the cognizance of Federal tribunals: That therefore the act of the Congress of the United States, passed on the 14th day of July, 1798, entitled "An Act in addition to the 'Act for the punishment of certain crimes against the United States,'" which does abridge the freedom of the press, is not law, but is altogether void and of no effect.

4. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual States distinct from their power over citizens; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people," the act of the Congress of the United States, passed on the 22d day of June, 1798, entitled "An Act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

5. *Resolved*, That in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inserted

in the Constitution from abundant caution has declared "that the *migration* or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808;" That this Commonwealth does admit the migration of alien friends described as the subject of the said Act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated, is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution, and void.

6. *Resolved*, That the imprisonment of a person under the protection of the laws of this Commonwealth on his failure to obey the simple *order* of the President, to depart out of the United States, as is undertaken by the said act, entitled "An Act concerning aliens," is contrary to the Constitution, one amendment to which has provided, that "no person shall be deprived of liberty without due process of law," and that another having provided, "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence," the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favour, without defence, without counsel, is contrary to these provisions also of the Constitution, is therefore not law, but utterly void and of no force.

That transferring the power of judging any person who is under the protection of the laws, from the Courts to the President of the United States, as is undertaken by the same

Act concerning aliens, is against the article of the Constitution which provides that "the judicial power of the United States, shall be vested in Courts, the Judges of which shall hold their offices during good behaviour," and that the said Act is void for that reason also; and it is further to be noted that this transfer of Judiciary power is to that magistrate of the General Government who already possesses all the Executive, and a qualified negative in all the Legislative powers.

7. *Resolved*, That the construction applied by the General Government (as is evinced by sundry of their proceedings), to those parts of the Constitution of the United States which delegate to Congress a power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution—That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of the instrument: That the proceedings of the General Government under colour of these articles, will be a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8. *Resolved*, That the preceding resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are hereby enjoined to present the same to their respective Houses, and to use their best endeavours to procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

9. *Resolved*, lastly, That the Governor of this Commonwealth be, and is hereby authorized and requested to

communicate the preceding resolutions to the Legislatures of the several States, to assure them that this Commonwealth considers Union for specified National purposes, and particularly for those specified in their late Federal compact, to be friendly to the peace, happiness, and prosperity of all the States: that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of self-government, and transfer them to a general and consolidated Government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States: And that therefore, this Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and consequently unlimited powers in no man or body of men on earth: that if the Acts before specified should stand, these conclusions would flow from them:—that the General Government may place any act they think proper on the list of crimes, and punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge and jury, whose *suspicions* may be the evidence, his order the sentence, his officer, the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these States being by this precedent reduced as outlaws to the absolute dominion of one man and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the power of a majority of Congress to protect from a like exportation or other more grievous punishment the minority of the same body, the Legislatures, Judges, Governors and Counsellors of the States, nor their other peaceable inhabitants who may venture to reclaim the Constitutional rights and liberties of the States and people, or who for other

causes, good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed; for, already has a Sedition Act marked him as its prey: that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these States into revolution and blood, and will furnish new calumnies against Republican Governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron: that it would be a dangerous delusion, were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited Constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the Alien and Sedition Acts, and say if the Constitution has not been wise in fixing limits to the Government it created, and whether we should be wise in destroying those limits? Let him say what the Government is if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution. That this Commonwealth does therefore

call on its co-States for an expression of their sentiments on the Acts concerning aliens, and for the punishment of certain crimes hereinbefore specified, plainly declaring whether these Acts are or are not authorized by the Federal compact? And it doubts not that their sense will be so announced as to prove their attachment unaltered to limited government, whether general or particular, and that the rights and liberties of their co-States, will be exposed to no dangers by remaining embarked on a common bottom with their own: That they will concur with this Commonwealth in considering the said Acts as so palpably against the Constitution as to amount to an undisguised declaration that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these States of all powers whatsoever: That they will view this as seizing the rights of the States, and consolidating them in the hands of the General Government with a power assumed to bind the States, not merely in cases made Federal, but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: That this would be to surrender the form of Government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the co-States recurring to their natural right in cases not made Federal, will concur in declaring these Acts void and of no force, and will each unite with this Commonwealth in requesting their repeal at the next session of Congress.

RESOLUTION PASSED BY THE KENTUCKY HOUSE OF REPRESENTATIVES, NOVEMBER 14, 1799

Resolved, That this Commonwealth considers the Federal Union, upon the terms and for the purposes specified in the late compact, as conducive to the liberty and happiness of the several States: That it does now unequivocally declare its attachment to the Union, and to that compact, agreeably to its obvious and real intention, and will be among the

last to seek its dissolution: That if those who administer the General Government be permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein contained, an annihilation of the State Governments, and the creation upon their ruins of a general consolidated Government, will be the inevitable consequence: That the principle and construction contended for by sundry of the State Legislatures, that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism —since the discretion of those who administer the Government, and not the Constitution, would be the measure of their powers: That the several States who formed that instrument being sovereign and independent, have the unquestionable right to judge of the infraction; and that a nullification by those sovereignties of all unauthorized acts done under colour of that instrument is the rightful remedy: That this Commonwealth does, under the most deliberate reconsideration, declare that the said Alien and Sedition Laws are, in their opinion, palpable violations of the said Constitution; and however cheerfully it may be disposed to surrender its opinion to a majority of its sister States, in matters of ordinary or doubtful policy, yet in momentous regulations like the present, which so vitally wound the best rights of the citizen, it would consider a silent acquiescence as highly criminal: That although this Commonwealth, as a party to the Federal compact, will bow to the laws of the Union, yet it does, at the same time, declare that it will not now, or ever hereafter, cease to oppose in a constitutional manner every attempt, at what quarter soever offered, to violate that compact. And, finally, in order that no pretext or arguments may be drawn from a supposed acquiescence on the part of this Commonwealth in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the Federal compact—this Commonwealth does now enter against them its solemn protest.

RESOLUTIONS PASSED BY THE GENERAL ASSEMBLY OF VIRGINIA, DECEMBER 21, 1798

1. *Resolved*, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression, either foreign or domestic, and that they will support the Government of the United States in all measures warranted by the former.

2. *Resolved*, The General Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that, for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.

3. *Resolved*, That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.

4. *Resolved*, That the General Assembly doth also express its deep regret, that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the Constitutional charter, which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former articles of confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and

limits the general phrases; and so as to consolidate the States by degrees into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present Republican system of the United States into an absolute, or, at best, a mixed monarchy.

5. *Resolved*, That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government; and which, by uniting Legislative and Judicial powers to those of Executive, subverts the general principles of a free Government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which Acts exercises, in like manner, a power not delegated by the Constitution; but, on the contrary, expressly and positively forbidden by one of the amendments thereto: a power which, more than any other, ought to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

6. *Resolved*, That this State having by its Convention, which ratified the Federal Constitution, expressly declared, that among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with other States, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution; it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were now shewn to the most palpable violation of one of the rights, thus declared and secured; and to the establishment of a precedent, which may be fatal to the other.

7. *Resolved*, That the good people of this Commonwealth, having ever felt and continuing to feel the most sincere affection for their brethren of the other States; the truest anxiety for establishing and perpetuating the Union of all; and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the Acts aforesaid are unconstitutional; and, that the necessary and proper measures will be taken by each, for co-operating with this State, in maintaining unimpaired, the authorities, rights, and liberties reserved in the States respectively, or to the people.

8. *Resolved*, That the Governor be desired to transmit a copy of the foregoing resolutions to the Executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives, representing this State in the Congress of the United States.

APPENDIX III

TREATY BETWEEN THE FRENCH REPUBLIC AND THE UNITED STATES, CONCERNING THE CESSION OF LOUISIANA, SIGNED AT PARIS THE 30TH OF APRIL, 1803

THE President of the United States of America, and the First Consul of the French Republic, in the name of the French people, desiring to remove all source of misunderstanding relative to objects of discussion, mentioned in the second and fifth articles of the convention of the 8th Vendémiaire, an 9, (30th of September, 1800,) relative to the rights claimed by the United States, in virtue of the treaty concluded at Madrid the 27th of October, 1795, between His Catholic Majesty and the said United States, and willing to strengthen the union and friendship which at the time of the said convention was happily re-established between the two nations, have respectively named their plenipotentiaries; to wit, the President of the United States of America, by and with the advice and consent of the Senate of the said States, Robert R. Livingston, minister plenipotentiary of the United States, and James Monroe, minister plenipotentiary and envoy extraordinary of the said States, near the government of the French Republic; and the First Consul, in the name of the French people, the French citizen Barbé-Marbois, minister of the public treasury, who, after having respectively exchanged their full powers, have agreed to the following articles:—

ART. 1. Whereas, by the article the third of the treaty concluded at St. Ildephonso, the 9th Vendémiaire, an 9, (1st

October, 1800,) between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows: "His Catholic Majesty promises and engages, on his part, to retrocede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to his Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other states." And, whereas, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontestable title to the domain, and to the possession of the said territory: The First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the United States, in the name of the French Republic, for ever and in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they had been acquired by the French Republic in virtue of the abovementioned treaty concluded with His Catholic Majesty.

ART. 2. In the cession made by the preceding article are included the adjacent islands belonging to Louisiana, all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private property. The archives, papers, and documents, relative to the domain and sovereignty of Louisiana and its dependencies, will be left in the possession of the commissaries of the United States, and copies will be afterwards given in due form to the magistrates and municipal officers of such of the said papers and documents as may be necessary to them.

ART. 3. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States;

and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

ART. 4. There shall be sent by the government of France a commissary to Louisiana, to the end that he do every act necessary, as well to receive from the officers of His Catholic Majesty the said country and its dependencies, in the name of the French Republic, if it has not been already done, as to transmit it in the name of the French Republic to the commissary or agent of the United States.

ART. 5. Immediately after the ratification of the present treaty by the President of the United States, and in case that of the First Consul shall have been previously obtained, the commissary of the French Republic shall remit all the military posts of New Orleans, and other parts of the ceded territory, to the commissary or commissaries named by the President to take possession; the troops, whether of France or Spain, who may be there, shall cease to occupy any military post from the time of taking possession, and shall be embarked as soon as possible, in the course of three months after the ratification of this treaty.

ART. 6. The United States promise to execute such treaties and articles as may have been agreed between Spain and the tribes and nations of Indians, until, by mutual consent of the United States and the said tribes or nations, other suitable articles shall have been agreed upon.

ART. 7. As it is reciprocally advantageous to the commerce of France and the United States to encourage the communication of both nations for a limited time in the country ceded by the present treaty, until general arrangements relative to the commerce of both nations may be agreed on, it has been agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce or manufactures of France or her said colonies; and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or

her colonies, shall be admitted during the space of twelve years in the ports of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain or any of their colonies, without being subject to any other or greater duty on merchandise, or other or greater tonnage than those paid by the citizens of the United States.

During the space of time above-mentioned, no other nation shall have a right to the same privileges in the ports of the ceded territory: the twelve years shall commence three months after the exchange of ratifications, if it shall take place in France, or three months after it shall have been notified at Paris to the French government, if it shall take place in the United States; it is, however, well understood that the object of the above article is to favour the manufactures, commerce, freight, and navigation of France and of Spain, so far as relates to the importations that the French and Spanish shall make into the said ports of the United States, without in any sort affecting the regulations that the United States may make concerning the exportation of the produce and merchandise of the United States, or any right they may have to make such regulations.

ART. 8. In future, and for ever after the expiration of the twelve years, the ships of France shall be treated upon the footing of the most favoured nations in the ports above-mentioned.

ART. 9. The particular convention, signed this day by the respective ministers, having for its object to provide for the payment of debts due to the citizens of the United States by the French Republic, prior to the 30th of September, 1800, (8th Vendémiaire, an 9,) is approved, and to have its execution in the same manner as if it had been inserted in the present treaty; and it shall be ratified in the same form, and in the same time, so that the one shall not be ratified distinct from the other.

Another particular convention, signed at the same date as the present treaty, relative to the definitive rule between

the contracting parties, is in the like manner approved, and will be ratified in the same form, and in the same time, and jointly.

ART. 10. The present treaty shall be ratified in good and due form, and the ratifications shall be exchanged in the space of six months after the date of the signature by the ministers plenipotentiary, or sooner if possible.

In faith whereof, the respective plenipotentiaries have signed these articles in the French and English languages; declaring, nevertheless, that the present treaty was originally agreed to in the French language; and have thereunto put their seals.

Done at Paris, the tenth day of Floréal, in the eleventh year of the French Republic, and the 30th of April, 1803.

ROBERT R. LIVINGSTON,
JAMES MONROE,
BARBÉ-MARBOIS.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC, OF THE SAME DATE WITH THE PRECEDING TREATY

THE President of the United States of America and the First Consul of the French Republic, in the name of the French people, in consequence of the treaty of cession of Louisiana, which has been signed this day, wishing to regulate definitively every thing which has relation to the said cession, have authorized to this effect the plenipotentiaries, that is to say; the President of the United States has, by and with the advice and consent of the Senate of the said States, nominated for their plenipotentiaries, Robert R. Livingston, minister plenipotentiary of the United States, and James Monroe, minister plenipotentiary and envoy extraordinary of the said United States, near the government of the French Republic; and the First Consul of the French Republic, in the name of the French people, has named

as plenipotentiary of the said Republic, the French citizen Barbé-Marbois, who, in virtue of their full powers, which have been exchanged this day, have agreed to the following articles:—

ART. 1. The government of the United States engages to pay to the French government, in the manner specified in the following articles, the sum of sixty millions of francs, independent of the sum which shall be fixed by another convention for the payment of debts due by France to citizens of the United States.

ART. 2. For the payment of the sum of sixty millions of francs, mentioned in the preceding article, the United States shall create a stock of eleven millions two hundred and fifty thousand dollars, bearing an interest of six per cent. per annum, payable half yearly in London, Amsterdam, or Paris, amounting by the half year to three hundred and thirty-seven thousand five hundred dollars, according to the proportions which shall be determined by the French government, to be paid at either place: the principal of the said stock to be reimbursed at the treasury of the United States, in annual payments of not less than three millions of dollars each; of which the first payment shall commence fifteen years after the date of the exchange of ratifications: this stock shall be transferred to the government of France, or to such person or persons as shall be authorized to receive it, in three months at most after the exchange of the ratifications of this treaty, and after Louisiana shall be taken possession of in the name of the government of the United States.

It is farther agreed, that if the French government should be desirous of disposing of the said stock to receive the capital in Europe, at shorter terms, that its measures for that purpose shall be taken so as to favour, in the greatest degree possible, the credit of the United States, and to raise to the highest price the said stock.

ART. 3. It is agreed that the dollar of the United States, specified in the present convention, shall be fixed at five

francs 3333–10000ths, or five livres eight sous tournois. The present convention shall be ratified in good and due form, and the ratifications shall be exchanged in the space of six months, to date from this day, or sooner if possible.

In faith of which, the respective plenipotentiaries have signed the above articles both in the French and English languages; declaring, nevertheless, that the present treaty has been originally agreed on and written in the French language; to which they have hereunto affixed their seals.

Done at Paris, the tenth of Floréal, eleventh year of the French Republic, (30th April, 1803.)

ROBERT R. LIVINGSTON,
JAMES MONROE,
BARBÉ-MARBOIS.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC, ALSO OF THE SAME DATE WITH THE LOUISIANA TREATY

THE President of the United States of America and the First Consul of the French Republic, in the name of the French people, having by a treaty of this date terminated all difficulties relative to Louisiana, and established on a solid foundation the friendship which unites the two nations, and being desirous, in compliance with the second and fifth articles of the convention of the 8th Vendémiaire, ninth year of the French Republic, (30th September, 1800,) to secure the payment of the sum due by France to the citizens of the United States, have respectively nominated as plenipotentiaries, that is to say: the President of the United States of America, by and with the advice and consent of the Senate, Robert R. Livingston, minister plenipotentiary, and James Monroe, minister plenipotentiary and envoy extraordinary of the said States, near the government of the French Republic, and the First Consul, in the name of the French people, the French citizen Barbé-Marbois, minister of the

public treasury; who, after having exchanged their full powers, have agreed to the following articles:—

ART. 1. The debts due by France to the citizens of the United States, contracted before the 8th Vendémiaire, ninth year of the French Republic, (30th September, 1800,) shall be paid according to the following regulations, with interest at six per cent., to commence from the period when the accounts and vouchers were presented to the French government.

ART. 2. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note, which fall within the exceptions of the following articles, shall not be admitted to the benefit of this provision.

ART. 3. The principal and interest of the said debts shall be discharged by the United States by orders drawn by their minister plenipotentiary on their treasury; these orders shall be payable sixty days after the exchange of the ratifications of the treaty and the conventions signed this day, and after possession shall be given of Louisiana by the commissioners of France to those of the United States.

ART. 4. It is expressly agreed, that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France for supplies, embargoes, and for prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention of the 8th Vendémiaire, ninth year, (30th September, 1800.)

ART. 5. The preceding articles shall apply only, 1st, to captures of which the council of prizes shall have ordered restitution; it being well understood that the claimant cannot have recourse to the United States otherwise than he might have had to the government of the French Republic, and only in case of the insufficiency of the captors: 2d, the debts mentioned in the said fifth article of the convention,

contracted before the 8th Vendémiaire, an 9, (30th September, 1800,) the payment of which has been heretofore claimed of the actual government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has or shall be confirmed: it is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason and the nature of their commerce ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made.

ART. 6. And that the different questions which may arise under the preceding article may be fairly investigated, the ministers plenipotentiary of the United States shall name three persons, who shall act from the present and provisionally, and who shall have full power to examine, without removing the documents, all the accounts of the different claims already liquidated by the bureau established for this purpose by the French Republic; and to ascertain whether they belong to the classes designated by the present convention and the principles established in it, or if they are not in one of its exceptions, and on their certificate, declaring that the debt is due to an American citizen or his representative, and that it existed before the 8th Vendémiaire, ninth year, (30th September, 1800,) the creditor shall be entitled to an order on the treasury of the United States, in the manner prescribed by the third article.

ART. 7. The same agents shall likewise have power, without removing the documents, to examine the claims which are prepared for verification, and to certify those

which ought to be admitted by uniting the necessary qualifications, and not being comprised in the exceptions contained in the present convention.

ART. 8. The same agents shall likewise examine the claims which are not prepared for liquidation, and certify in writing those which in their judgments ought to be admitted to liquidation.

ART. 9. In proportion as the debts mentioned in these articles shall be admitted, they shall be discharged with interest at six per cent. by the treasury of the United States.

ART. 10. And that no debt which shall not have the qualifications above-mentioned, and that no unjust or exorbitant demand may be admitted, the commercial agent of the United States at Paris, or such other agent as the minister plenipotentiary of the United States shall think proper to nominate, shall assist at the operations of the bureau, and co-operate in the examination of the claims; and if this agent shall be of opinion that any debt is not completely proved, or if he shall judge that it is not comprised in the principles of the fifth article above-mentioned; and if, notwithstanding his opinion, the bureau established by the French government should think that it ought to be liquidated, he shall transmit his observations to the board established by the United States, who, without removing the documents, shall make a complete examination of the debt and vouchers which support it, and report the result to the minister of the United States. The minister of the United States shall transmit his observations, in all such cases, to the minister of the treasury of the French Republic, on whose report the French government shall decide definitively in every case.

The rejection of any claim shall have no other effect than to exempt the United States from the payment of it, the French government reserving to itself the right to decide definitively on such claim so far as it concerns itself.

ART. 11. Every necessary decision shall be made in the course of a year, to commence from the exchange of ratifications, and no reclamation shall be admitted afterwards.

ART. 12. In case of claims for debts contracted by the government of France with citizens of the United States, since the 8th Vendémiaire, ninth year, (30th September, 1800,) not being comprised in this convention, they may be pursued, and the payment demanded in the same manner as if it had not been made.

ART. 13. The present convention shall be ratified in good and due form, and the ratifications shall be exchanged in six months from the date of the signature of the ministers plenipotentiary, or sooner if possible.

In faith of which, the respective ministers plenipotentiary have signed the above articles, both in the French and English languages; declaring, nevertheless, that the present treaty has been originally agreed on and written in the French language; to which they have hereunto affixed their seals.

Done at Paris, the tenth day of Floréal, eleventh year of the French Republic, (30th April, 1803.)

ROBERT R. LIVINGSTON,
JAMES MONROE,
BARBÉ-MARBOIS.

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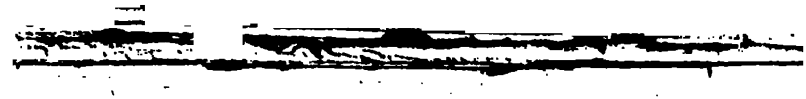

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